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BURN'S
JUSTICE OF THE PEACE
AND
Parish Officer.
BY J. & T. CHITTY.



VOL. V.

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AND

Parish Officer.

BY

RICHARD BURN, ESQ.

The Twenty-Eighth Edition.

Corrected and enlarged.

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BY

J. CHITTY, Esq.,

OF THE MIDDLE TEMPLE, BARRISTER AT LAW.

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THOMAS CHITTY, Esq.,

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IN SIX VOLUMES.

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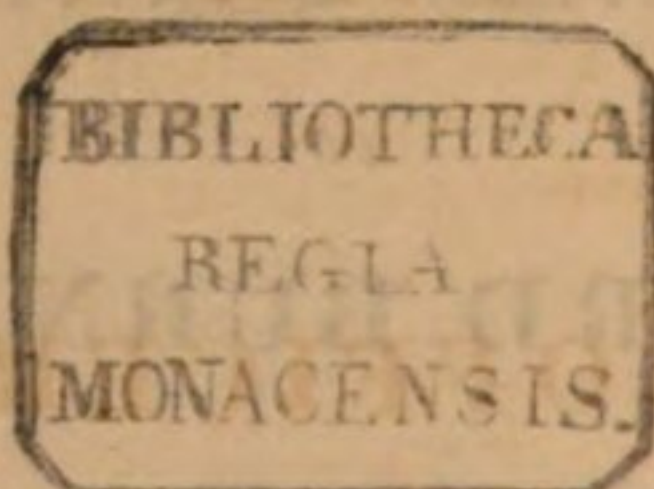
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Pamphlets, see "**Newspapers**"—Vol. III.

Panel, see "**Jurors**"—Vol. III.

Papers, see "**Exercise**"—Vol. II.

Papists, see "**Popery**"—Post.

Pardon(a).

[27 Edw. III. c. 2; 13 Rich. II. st. 2, c. 1; 5 Wil. c. 13; 12 & 13 Wil. c. 2;
20 Geo. II. c. 52; 30 Geo. III. c. 47; 37 Geo. III. c. 140; 58 Geo. III.
c. 29; 6 Geo. IV. c. 25; 7 & 8 Geo. IV. c. 28, s. 13; 9 Geo. IV. c. 32.]

A PARDON is a work of mercy, whereby the king, either before the What.
attainder, sentence, or conviction, or after, forgiveth any crime, offence,
punishment, execution, right, title, debt, or duty, temporal or ecclesiastical.
(3 *Inst.* 233.)

The power of pardoning offences is inseparably incident to, and is the Granted by king.
most amiable prerogative of, the crown; and this high prerogative the king
is entrusted with upon a special confidence that he will spare those only
whose case (could it have been foreseen) the law itself may be presumed
willing to have been excepted out of its general rules; which the wisdom of
man cannot possibly make so perfect as to suit every particular case. (1 *Show.*
284.)

(a) As to pardons in general, see 1 *Chit.* 3 *Inst.* 233 to 240; 2 *Hawk.* c. 37
C. L. 762 to 777, where the law relative *Com. Dig. Pardon.*
thereto is very fully considered; and see
VOL. V.

By the 30 Geo. III. c. 47, the king may empower the governor or lieutenant-governor of any place to which convicts are transported, to remit the term of transportation.

General pardon.

Pardons are either *general* or *special*: *general*, are by act of Parliament; of which, if they are without exceptions, the court must take notice *ex officio*: but if there are exceptions therein, the party must aver that he is none of the persons excepted. (3 *Inst.* 233. *Hale's Sum.* 252.)

By the 20 Geo. II. c. 52, for the king's general pardon, all persons are pardoned and discharged from certain crimes committed prior to June 15, 1647; with certain exemptions in the said act mentioned.

And the like for the most part hath been enacted by former statutes of general pardon; together, also, with the exceptions of several persons by name.

Special pardon.

Special pardons are either of *course*, as to persons convicted of manslaughter, or *se defendendo*, and by divers statutes to those who shall discover their accomplices in several felonies; or of *grace*, which are by the king's charter, of which the court cannot take notice *ex officio*, but they must be pleaded. (3 *Inst.* 233.)

What pardonable.

As to what offences are pardonable in general, see 1 *Chit. C. L.* 672.

Offence before committed.

The king cannot pardon an offence before it be committed; and such pardon is void. (2 *Haw. c.* 37, s. 28.)

Nuisances.

And in some cases, even where the king is sole party, some things there are which he cannot pardon: as, for example, for all common nuisances, as for not repairing bridges or highways, the suit (for avoiding multiplicity of suits) is given to the king only for redress and reformation thereof; but the king cannot pardon or discharge either the nuisance, or the suit for the same; because such pardon would take away the only means of compelling a redress of it. But it hath been holden by some, that a pardon of such offence will save the party from any fine for the time precedent to the pardon. (3 *Inst.* 237. 2 *Haw. c.* 37, s. 33.)

Fines.

And surely, a fine being a mulct to the king, and not a forfeiture to the party grieved, may be by the king remitted.

Impeachment.

By the act of settlement, 12 & 13 Wil. III. c. 2, no pardon, under the great seal of England, shall be pleadable to an impeachment by the Commons in Parliament. But it seems, after the impeachment solemnly heard and determined, the royal grace is not farther restrained or abridged; for that to pardon delinquents convicted on impeachment is as ancient as the constitution. (4 *Blac. Com.* 400, n. 2.)

But in the case of an impeachment, after the Lords have delivered their sentence of guilty, the Commons can pardon the party by declining to demand judgment against him; for no judgment can be pronounced by the Lords till it be demanded by the Commons. (4 *Blac. Com.* 400, n. 2.)

Recognisances.

Thus also, if one be bound by recognisance to the king to keep the peace against another by name, and generally all other lieges of the king, in this case, before the peace be broken, the king cannot pardon or release the recognisance, although it may be made only to him, because it is for the benefit and safety of his subjects. (1 *Inst.* 238.)

Information qui tam.

Likewise, after an action popular is brought as well for the king as for the informer, according to any statute, the king can but discharge his own part, and cannot discharge the informer's part; because by bringing the action the informer hath an interest therein: but before the action brought, the king may discharge the whole, (unless it be provided to the contrary by the act,) because the informer cannot bring an action or information originally for his part only, but must pursue the statute. And if the action be given to the party grieved, the king cannot discharge the same. (3 *Inst.* 231.)

By non-payment of money on 7 & 8 G. 4, c. 29.

By 7 & 8 Geo. IV. c. 29, s. 69, it shall be lawful for the king to extend his royal mercy to any person imprisoned by virtue of this act (relating to larceny, &c.) *ante*, Vol. III. "*Larceny*," although he shall be imprisoned for non-payment of money to some party other than the crown.

Suit in spiritual court.

It seems to have been always agreed that the king's pardon will discharge any suit in the spiritual court, *ex officio*. Also, it seems to be settled at this

day, that it will discharge any suit in such court at the instance of the party, for the reformation of manners, or welfare of the soul, as for defamation, or laying violent hands on a clerk, and such like; for such suits are in truth the suits of the king, though prosecuted by the party. Also, it seems to be agreed that, if the time to which such pardon hath relation be prior to the award of costs to the party, it shall discharge them. And it seems to be the general tenor of the books, that though it be subsequent to the award of the costs, yet if it be prior to the taxation of them, it shall discharge them; because nothing appears in certain to be due for costs before they are taxed. (1 *Haw. c. 37, s. 41.*)

But it seems agreed that a pardon shall not discharge a suit in the spiritual court any more than in the temporal, for a matter of interest or property in the plaintiff; as for tithes, legacies, matrimonial contracts, and such like. (*Id. s. 42.*)

If the king release to a man all debts, this shall not discharge his co-debtor; but otherwise it is in case of a subject, for in that case the release to one discharges both. (3 *Inst. 239.*)

A pardon could not formerly be pleaded, unless it were by act of Parliament or under the great seal; and the king's warrant under the sign-manual was not pleadable, as was held in the case of *R. v. Beaton*, 1 *Bl. Rep. 479*; *Lord Warwick's case*, 13 *How. State Trials*, 1015; *Rex v. Gully*, 1 *Leach*, 98. King's sign-manual to pardon not requisite.

But now by 7 & 8 Geo. IV. c. 28, s. 13, "Where the king's majesty shall be pleased to extend his royal mercy to any offender convicted of any felony, punishable with death or otherwise, and by warrant under his royal sign-manual, countersigned by one of his principal secretaries of state, shall grant to such offender either a free or a conditional pardon; the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the great seal for such offender, as to the felony for which such pardon shall be so granted."

"Provided always, that no free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction, for any felony committed after the granting of any such pardon."

The 6 Geo. IV. c. 25 (which is not repealed), is similar to the first part of the above provision, except that the 6 Geo. IV. applies only to cases of felony *excluded the benefit of clergy*, whereas the above provision extends to all felonies.

The 9 Geo. IV. c. 32, s. 3, reciting, "It is expedient to prevent all doubts respecting the civil rights of persons convicted of felonies not capital, who have undergone the punishment to which they were adjudged;" enacts, "that where any offender hath been or shall be convicted of any felony not punishable with death, and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects and consequences as a pardon under the great seal, as to the felony whereof the offender was so convicted. Provided always, that nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other felony." Punishment for felony, after endured, to have effect of pardon under great seal.

By the 27 Edw. III. c. 2, in every charter of the pardon of felony, the suggestion, and the name of him that maketh the suggestion, shall be comprised; and, if it be found untrue, the charter shall be disallowed. Pardon to contain the suggestion.

For, wherever it may reasonably be presumed that the king was deceived, the pardon is void. Therefore, any suppression of truth or suggestion of falsehood in a charter of pardon will vitiate the whole. (2 *Hawk. s. 37, c. 12*; 3 *Inst. 238.*)

Pardon to specify the offence, if murder, treason, or rape.

And, by stat. 13 Rich. II. st. 2, c. 1, no charter of pardon shall be allowed for murder, treason, or rape, unless the offence be specified therein.

Lord Coke says, the intention of this act was not that the king should grant a pardon of murder by express name in the charter, but because the whole Parliament conceived that he would never pardon murder by special name. And he says, he hath never seen any pardon of murder by any king of England by express name. (2 *Inst.* 233, 236.)

It was, however, determined in the Court of King's Bench, that the king may pardon on an indictment for murder, as well as a subject may discharge an appeal. (*R. v. Parsons*, 1 *Salk.* 499.)

Person pardoned may be bound to good behaviour.

By stat. 5 Wil. III. c. 13, when a pardon is pleaded by any one for felony, the justices may at their discretion remand him to prison till he enter into recognisance, with two sureties, for his good behaviour, for any time not exceeding seven years.

Pardon doth not restore lands or goods forfeited.

It seems to be a settled rule that no pardon by the King, without express words of restitution, shall divest either from the King or subject an interest either in lands or goods vested in them by an attainder or conviction precedent; yet it seems agreed, that a pardon prior to a conviction shall prevent any forfeiture either of lands or goods. (2 *Hawk. c.* 35, s. 54.)

Doth not restore the corruption of blood.

A pardon after the attainder doth not restore the corruption of blood; for this cannot be restored but by act of Parliament. (3 *Inst.* 233.)

But, as to issue born after the pardon, it hath the effect of the restitution of blood. (1 *Hale*, 358.)

Doth restore the credit.

It seems to be settled at this day, that the pardon of treason or felony, even after a conviction or attainder, doth so far clear the party from the infamy and all other consequences of his crime, that he may not only have an action for a scandal in calling him traitor or felon after the time of the pardon, but may also be a good witness, notwithstanding the attainder or conviction; because the pardon makes him, as it were, a new man, and gives him a new capacity and credit. (2 *Hawk. c.* 37, s. 48. See Vol. II. "*Evidence.*")

In perjury.

But it seems to be the better opinion that the pardon of a conviction of perjury doth not so restore the party to his credit as to make him a good witness; because it would be an injury to the people in general to make them subject to such a person's testimony. (*Anon.* 1 *Vent.* 349.)

Touching a pardon for perjury, this difference is to be taken, that where a party is convict upon the statute, it is part of the judgment to be disabled; but, at common law, it is only a consequential disability. Therefore, in the latter case, the King may pardon, and that restores the party to his testimony; otherwise in the former, for in that case he must reverse the judgment, or cannot be restored. (*Rex v. Greepe*, 2 *Salk.* 574.)

Fees for pardons to be paid by the Treasury.

By stat. 58 Geo. III. c. 29 (for regulating the payment of fees for pardons under the great seal), it is enacted, "that no fee, gratuity, or other dues, paid or payable for or in respect of any grant of a pardon by his Majesty, his heirs and successors, or for or in respect of any letters patent, charter, warrant, bill, docket, or other instrument appertaining thereto, or the transcript of any such instrument, shall be paid or payable by or on behalf of the person or persons in whose favour or to whom such pardon shall be granted; but that all fees which are now paid and payable for the granting and passing of any such pardon or pardons, shall be paid by the Lords Commissioners of his Majesty's Treasury of the United Kingdom of Great Britain and Ireland, in the same manner and by the same persons as other law expenses on behalf of his Majesty are paid."

Exemption from stamp-duties.

Sect. 2 enacts, that from and after the passing of this act, no such letters patent, charter, warrant, bill, docket, instrument, or transcript, as aforesaid, shall be subject to or liable to be charged with any stamp-duty or duties whatever.

Pardon to persons sentenced to death by a naval court-martial.

By stat. 37 Geo. III. c. 140. s. 1, if his Majesty shall be pleased to extend his mercy to any offender liable to the punishment of death, by the sentence of a naval court-martial, upon condition of transportation, or of transporting himself beyond seas, or on condition of being imprisoned within any gaol in Great Britain, or on condition of being kept to hard labour in any gaol, or

house of correction, or penitentiary house, or on any river, it shall be lawful for any justice of the King's Bench, chief baron or baron of the Exchequer, of the degree of the coif, upon such intention of mercy, as aforesaid, being notified in writing by one of his majesty's principal secretaries of state, to allow to such offender the benefit of such conditional pardon as shall be expressed in such notification, in the same manner as if a conditional pardon had passed for that purpose under the great seal. And, if the condition be of transportation, or of transporting himself, such justice or baron shall make order as he might in cases under stat. 24 Geo. III. s. 2, c. 56. If the condition be of imprisonment, or being kept to hard labour, the pardon shall be allowed, as aforesaid; and such justice or baron shall order imprisonment or hard labour, according to the notification of pardon from such secretary, as he might do by the 19 Geo. III. c. 74.

37 Geo. 3, c. 140.

By sect. 2, the justice or baron who shall allow such pardon, and make such order under such notification, shall direct the notification and his own order to be filed in the office of the Clerk of the Crown of the Court of King's Bench.

The pardon, &c. to be filed in K. B.

By sect. 4, the said clerk of the Crown shall, upon the application of any such offender who shall accept his majesty's pardon, or of any other person applying on his behalf, or on application of any person on the behalf of his majesty, deliver a certificate in writing under his hand, containing an account of the christian name and surname of such offender, of his offence, of the place where the court was held, before whom he was convicted, and of the terms and conditions on which pardon was given him; which certificate shall be sufficient proof of the conviction and sentence of such offender, and also of the terms on which such pardon was granted, in any court, and in any proceeding in which it may be necessary to inquire into the same.

Certificate from clerk of crown to be proof of pardon.

Parent and Children.

AS to the maintenance of children, see "Bastards," Vol. I.; "Poor," Vol. IV.

As to how far an assault may be justified in defence of parent and child, see "Assault," Vol. I.

Parish and other Registers.

AS to proof of marriages, see "Evidence," Vol. II.; "Marriage," Vol. III.

As to proof by registers, see "Evidence," Vol. II.

By stat. 52 Geo. III. c. 146, after reciting that "the amending the manner and form of keeping and of preserving registers of baptisms, marriages, and burials of his majesty's subjects in the several parishes and places in England, will greatly facilitate the proof of pedigrees of persons claiming to be entitled to real or personal estates, and be otherwise of great public benefit and advantage," it is enacted, "that from and after the 31st of December, 1812, registers of public and private baptisms, marriages (a), and burials, solemnized according to the rites of the united Church of England and Ireland, within all parishes or chapelries in England, whether subject to the ordinary, or peculiar, or other jurisdiction, shall be made and kept by the rector, vicar, curate, or officiating minister, of every parish (or of any chapelry where the ceremonies of baptism, marriage, and burial, have been usually and may, according to law, be performed), for the time being, in

52 Geo. 3, c. 146.

Ministers to keep registers of baptisms and burials.

(a) By stat. 4 Geo. IV. c. 76, s. 28, marriages are to be in the presence of two witnesses, and by that act they were to be registered and signed, &c., see the act in full, ante, "Marriage," Vol. III.; but the 6 & 7 Wil. IV. c. 86, *post*, repeals the above act of 52 Geo. III. c. 146, and the 4 Geo. IV. c. 76, so far as they relate to the registration of marriages.

52 Geo. 3, c. 146.

Parishes to provide suitable books for that purpose.

King's printer to transmit to each parish a printed copy of this act, and register-books adapted to the forms herein prescribed.

Registers to be in separate register-books.

Certificate of baptism or burial, when performed in any other place than the parish church or church-yard, to be according to schedule (D.) and the entry of such baptism or burial to be distinguished accordingly (a).

books of parchment, or of good and durable paper, to be provided by his majesty's printer, as occasion may require, at the expense of the respective parishes or chapelries; whereon shall be printed, upon each side of every leaf, the heads of information herein required to be entered in the registers of baptisms, marriages, [see 6 & 7 Wil. IV. c. 86, *post*,] and burials, respectively; and every such entry shall be numbered progressively from the beginning to the end of each book, the first entry to be distinguished by number 1; and every such entry shall be divided from the entry next following by a printed line, according to the forms contained in the schedule (A. B. C.) hereto annexed; and every page of every such book shall be numbered with progressive numbers, the first page being marked with the number 1, in the middle of the upper part of such page, and every subsequent page being marked in like manner with progressive numbers, from number 1 to the end of the book."

Sect. 2. "And, for better insuring the regularity and uniformity of such register books, a printed copy of this act, together with one book so prepared, as aforesaid, and adapted to the form of the register of baptisms prescribed in the schedule (A.) to this act annexed; and also one other book so prepared as aforesaid, and adapted to the form prescribed for the register of marriages in the schedule (B.) to this act annexed; and also one other book so prepared as aforesaid, and adapted to the form prescribed for the register of burials in the schedule (C.) to this act annexed, shall be provided and transmitted by his majesty's printer to the officiating ministers of the several parishes and chapelries in England respectively, who are hereby required to use and apply the same in and to the purposes of this act; and such books respectively shall be proportioned to the population of the several parishes and chapelries, according to the last returns of such population made under the authority of parliament; and other books of like form and quality shall, for the like purposes, be furnished from time to time by the churchwardens or chapelwardens of every parish or chapelry, at the expense of the said parish or chapelry, whenever they shall be required by the rector, vicar, curate, or officiating minister, to provide the same; and all such books shall be of paper, unless required to be of parchment by such churchwardens or chapelwardens respectively."

Sect. 3. "Such registers shall be kept in such separate books aforesaid; and every such rector, vicar, curate, or officiating minister, shall, as soon as possible after the solemnization of every baptism, whether private or public, or burial respectively, record and enter, in a fair and legible handwriting, in the proper register-book, to be provided, made, and kept, as aforesaid, the several particulars described in the several schedules hereinbefore mentioned, and sign the same; and in no case, unless prevented by sickness or other unavoidable impediment, later than within seven days after the ceremony of any such baptism or burial shall have taken place."

Sect. 4. "Whenever the ceremony of baptism or burial shall be performed in any other place than the parish church or church-yard of any parish (or the chapel or chapel-yard of any chapelry, providing its own distinct registers), and such ceremony shall be performed by any minister not being the rector, vicar, minister, or curate, of such parish or chapelry, the minister who shall perform such ceremony of baptism or burial shall, on the same or on the next day, transmit to the rector, vicar, or other minister of such parish or

(a) An entry in a register of baptism, as to the time of a child's birth, is not evidence of the age, (*Wiher v. Law*, 3 Stark. 63; *Rex v. Clapham*, 4 Car. & P. 29.) Nor is the register of the christening of a child in a particular parish evidence, when unaccompanied by other circumstances, that the child was born in that parish, (*Rex v. North Petherton*, 5 B. & C. 508, 4 D. & R. M. C. 79, S. C.) And an entry in the register-book

by the minister of the parish of the baptism of a child, which had taken place before he became minister or had any connection with the parish, of which he received information from the parish-clerk, is not admissible in evidence, nor is the private memorandum of the fact made by the clerk who was present at the baptism. (*Doe d. Warren v. Bray*, 3 B. & C. 812; and see further, *ante*, "Evidence," Vol. II.)

chapelry, or his curate, a certificate of such baptism or burial, in the form contained in the schedule (D.) to this act annexed; and the rector, vicar, minister, or curate, of such parish or chapelry, shall thereupon enter such baptism or burial, according to such certificate, in the book kept pursuant to this act for such purpose, and shall add to such entry the following words: "According to the certificate of the Rev. _____, transmitted to me on the _____ day of _____."

Sect. 5. The several books wherein such entries shall respectively be made, and all register-books heretofore in use, shall be deemed to belong to every such parish or chapelry respectively, and shall be kept by, and remain in the power and custody of, the rector, vicar, curate, or other officiating minister, of each respective parish or chapelry, as aforesaid, and shall be by him safely and securely kept in a dry, well-painted iron chest, to be provided and repaired, as occasion may require, at the expense of the parish or chapelry; and which said chest, containing the said books, shall be constantly kept locked in some dry, safe, and secure place, within the usual place of residence of such rector, vicar, curate, or other officiating minister (if resident within the parish or chapelry), or in the parish church or chapel; and the said books shall not, nor shall any of them, be taken or removed from or out of the said chest, at any time, or for any cause whatever, except for the purpose of making such entries therein, as aforesaid, or for the inspection of persons desirous to make search therein, or to obtain copies from or out of the same, or to be produced as evidence in some court of law or equity, or to be inspected as to the state and condition thereof, or for some of the purposes of this act; and, immediately after making such respective entries, or producing the said books respectively for the purposes aforesaid, the said books shall forthwith again be safely and securely deposited in the said chest.

Sect. 6. At the expiration of two months after the 31st of December, 1812, and at the expiration of two months after the end of every subsequent year, fair copies of all the entries of the several baptisms, marriages, and burials, which shall have been solemnized, or shall have taken place, within the year preceding, shall be made by the rector, vicar, curate, or other resident or officiating minister (or by the churchwardens, chapelwardens, clerk, or other person duly appointed for the purpose, under and by the direction of such rector, vicar, curate, or other resident or officiating minister), on parchment, in the same form as prescribed in the schedules hereunto annexed (to be provided by the respective parishes); and the contents of such copies shall be verified and signed in the form following, by the rector, vicar, curate, or officiating minister, of the parish or chapelry to which such respective register-book shall appertain:—

I, A. B., rector [or, as the case may be] of the parish of C. [or, of the chapelry of D.], in the county of E., do hereby solemnly declare, that the several writings hereto annexed, purporting to be copies of the several entries contained in the several register-books of baptisms, marriages, and burials, of the parish or chapelry aforesaid, from the _____ day of _____ to the _____ day of _____, are true copies of all the several entries in the said several register-books respectively, from the said _____ day of _____ to the said _____ day of _____; and that no other entry during such period is contained in any of such books respectively, are truly made, according to the best of my knowledge and belief. (Signed) A. B.*

Which declaration shall be fairly written, without any stamp, on the said copy, immediately after the last entry therein; and the signature to such declaration shall be attested by the churchwardens or chapelwardens, or one of them, of the parish or chapelry to which such register-books shall belong.

Sect. 7. Copies of the said register-books, verified and attested as aforesaid, shall, whether such parish or chapelry shall be subject to the ordinary, peculiar, or other jurisdiction, be transmitted by such churchwardens or chapelwardens, after they, or one of them, shall have signed the same, by the post, to the registrars of each diocese in England, within which the church or chapel shall be situated, on or before the 1st of June, 1814, and on or before the 1st day of June in every subsequent year.

Register-books to be kept in custody of the officiating minister, in an iron chest, to be provided at parish expense.

Annual copies of registers to be made, and to be verified by the officiating minister.

* Sic.

Annual copies of register-books to be transmitted to the registrars of each diocese by the churchwarden.

52 Geo. 3, c. 146.

Registrars to make reports to bishops whether the said copies have been sent in.

On neglect or refusal of minister to verify copies of register-books, churchwardens to certify the default.

Where there is no church or chapel, a memorandum of baptism or burial may be delivered to the minister of adjoining parish.

Letters and packets, containing annual copies of register-books, to go free of postage.

Annual copies of register-books, when transmitted to registrars, to be safely kept from damage; and alphabetical lists to be made.

Report to the Privy Council on or before 1st March, 1813,

Sect. 8. The registrar of every diocese in England shall, on or before the 1st of July, 1814, and on or before the 1st of July in every subsequent year, make a report to the bishop of such diocese, whether the copies of the registers of the baptisms, marriages, and burials, in the several parishes and places within such diocese, have been sent to such registrar, in the manner and within the time herein required; and, in the event of any failure of the transmission of the copies of the registers, as herein required, by the churchwardens and chapelwardens of any parish or chapelry in England, the registrar shall state the default of the parish or chapelry specially in his report to the bishop.

Sect. 9. In case the rector, vicar, or other officiating minister or curate, of any parish or chapelry, shall neglect or refuse to verify and sign such copies of such several register-books, and such declaration as aforesaid, so that the churchwardens or chapelwardens shall not be able to transmit the same, as required by this act, such churchwardens or chapelwardens shall, within the time required by this act for the transmission thereof, certify such default to the registrar of the diocese within which such parish or chapelry shall be, who shall specially state the same in his report to the bishop of such diocese.

Sect. 10. And, for the obtaining of returns and registers of baptisms and burials in extra-parochial places in England, where there is no church or chapel, it is enacted that, in all cases of the baptism of any child, or the burial of any person, in any extra-parochial place in England, according to the rites of the Established Church, where there is no church or chapel, it shall be lawful for the officiating minister, within one month after such baptism or burial, to deliver to the rector, vicar, or curate, of such parish immediately adjoining to the place in which such baptism or burial shall take place, as the ordinary shall direct, a memorandum of such baptism or burial, signed by such parent of the child baptized, or a memorandum of such burial, signed by the person employed about the same, together with two of the persons attending the same, according as the nature of the case may respectively require; and every such memorandum respectively shall contain all such particulars as are herein-before required; and every such memorandum delivered to the rector, vicar, or curate, of any such adjoining parish or chapelry, shall be entered in the register of his parish, and form a part thereof.

Sect. 11. The superscription upon all letters and packets containing the copies of such parish or other registers, to be transmitted by the post to the several offices of the said registrars, as aforesaid, shall be indorsed and signed by the churchwardens or chapelwardens of every respective parish and chapelry in England, in the form contained in schedule (E.); and all such letters and packets shall be carried and conveyed by means of his majesty's post-office to, and be delivered at the offices of, the said registrars, without postage or other charge being paid or payable for the same.

Sect. 12. When and so often as the copies of the said register-books of baptisms, marriages, and burials, as aforesaid, and also the said lists of births, baptisms, marriages, or burials, as aforesaid, shall be transmitted to the office of the said registrars respectively, as aforesaid, pursuant to the directions herein-before contained for that purpose, the said registrars shall respectively cause all the said books and lists to be safely and securely deposited, kept, and preserved, from damage or destruction by fire or otherwise, and to be carefully arranged, for the purpose of being resorted to, as occasion may require; and the said registrars respectively shall also cause correct alphabetical lists to be made, and kept in books suitable to the purpose, of the names of all persons and places mentioned in such books and lists as shall have been transmitted to the said registrars respectively; which alphabetical lists and books, and also the copies of registers and lists so transmitted to the said registrars, as aforesaid, shall be open to public search at all reasonable times, on payment of the usual fees.

Sect. 13. And whereas in many dioceses the places wherein the copies of the parochial registers of baptisms, marriages, and burials, as well as the original wills proved within the same respectively, are kept, are insufficient

for their being preserved with due care, for which a remedy should be applied in those dioceses where it shall be found necessary, it is enacted that, in order to a due examination thereof, the bishop, together with the custodes rotulorum of the several counties within each diocese, and the chancellor thereof, shall, before the 1st of February, 1813, cause a careful survey to be made of the several places in which the parochial registers, and the wills proved within the diocese, are kept, and shall make a report to his majesty's most honourable Privy Council of the state of the same, on or before the 1st day of March following, setting forth in each case whether the buildings are in all respects fit and proper for the preservation of papers of the above description, as well with respect to space as to security from fire, and to protection from damp, and if not, at what probable expense they can be made so; and where the instruments and papers before mentioned are kept in dwelling-houses, or other places, which cannot be made fit and secure for the due preservation thereof, then, and in such case, the persons before named shall inquire and report in like manner at what expense proper buildings may be provided, and in what places, so as to have one place within each diocese for the due preservation of all such registers and wills, together with their opinion upon the most suitable mode of remunerating the officers employed in each registry, for their additional trouble and expense in carrying the provisions of this act into execution.

52 Geo. 3, c. 146.

respecting proper places for the preservation of copies of register-books, as well as original wills, in each diocese, and for remuneration of registrars' officers.

Sect. 16. Nothing in this act contained shall in any manner diminish or increase the fees heretofore payable or of right due to any minister for the performance of any of the before-mentioned duties, or to any minister or registrar for giving copies of such registrations, but that all due, legal, and accustomed fees on such occasions, and all powers and remedies for recovery thereof, shall be and remain as though this act had not been made.

Fees heretofore payable not altered by this act.

Sect. 17. No duplicate or copy of any register of baptism, marriage, or burial, made under the directions and for the purposes of this act, shall be chargeable with any stamp duty thereon; any act now in force to the contrary thereof in anywise notwithstanding.

Annual copy of register-books not subject to stamp duty.

Sect. 18. One half of the amount of all fines or penalties to be levied in pursuance of this act, shall go to the person who shall inform or sue for the same; and the remainder of such fines as shall be imposed on any churchwarden or chapelwarden shall go to the poor of the parish or place for which such churchwarden or chapelwarden shall serve; and the remainder of such fines as shall be imposed on any rector, vicar, minister, or curate, or registrar, shall be paid and applied to such charitable purposes, in the county within which the parish or place shall be, as shall be directed by the bishop of the diocese.

Application of penalties.

Sect. 19. The rector, vicar, curate, or officiating minister of every parish and chapelry in England, whether subject to the ordinary, peculiar, or other jurisdiction, shall transmit to the registrar of the diocese in which the parish or chapelry shall be situated, before the 1st day of June, 1813, a list of all registers which now are in such parish or chapelry respectively, stating the periods at which they respectively commence and terminate, the periods (if any) for which they are deficient, and the places where they are deposited.

Lists of all extant register-books to be transmitted by the officiating minister to the registrar before 1st June, 1813.

Sect. 20. All the provisions in this act shall extend, so far as circumstances will permit, to cathedral and collegiate churches, and chapels of colleges or hospitals, and the burying grounds belonging thereto; and to the ministers who shall officiate in such cathedral or collegiate churches, and chapels of colleges or hospitals, and burying grounds respectively, and shall baptize, marry, or bury any person or persons, although such cathedral or collegiate churches or chapels of colleges or hospitals, or the burying grounds belonging thereto, may not be parochial, or the ministers officiating therein may not be, as such, parochial ministers, and there shall be no churchwarden or churchwardens thereof; and in all such cases, the books herein-before directed to be provided, shall be provided at the expense of the body having right to appoint the officiating minister in every such cathedral or collegiate church or chapel of a college or hospital; and copies thereof shall be transmitted to the registrar of the diocese within which such cathedral or collegiate church or chapel of a college or hospital shall be, by the officiating minister of such

Provisions of act to extend to churches and chapels not parochial.

52 Geo. 3, c. 146.

Not to repeal
any provision of
the marriage act,
26 G. 2, c. 33.

Inserting any
false entry in any
register of bap-
tisms, &c.

forging or altering
any such entry ;

uttering any false
or forged entry ;

destroying the
register ;

forging any licence
of marriage ;

transportation for
life, &c.

Rector, &c. not
liable to any pe-
nalty for correct-
ing, in the mode
prescribed, acci-
dental errors in
register.

Inserting in copy
of register of bap-
tisms, &c. trans-
mitted to the regis-
trar, any false
entry ;

or forging or veri-
fying any copy,
knowing it to be
false ;

church, in like manner as herein directed with respect to parochial minis-
ters, and shall be attested by two of the officers of such church, college, or
hospital, as the copies of parochial registers are herein directed to be attested
by churchwardens : provided always, that nothing in this act contained shall
extend to repeal any provision contained in an act passed in the twenty-
sixth year of the reign of his late Majesty King George the Second, intituled
An Act for better preventing Clandestine Marriages.

The 11 Geo. IV. & 1 Will. IV. c. 66 (which repeals the 14th and 15th sec-
tions of 52 Geo. III. c. 146, s. 20), enacts, " that if any person shall know-
ingly and wilfully insert, or cause or permit to be inserted, in any register of
baptisms, marriages, or burials, which hath been or shall be made or kept by
the rector, vicar, curate, or officiating minister of any parish, district-parish,
or chapelry in England, any false entry of any matter relating to any baptism,
marriage, or burial ; or shall forge or alter in any such register any entry of
any matter relating to any baptism, marriage, or burial ; or shall utter any
writing as and for a copy of an entry in any such register of any matter re-
lating to any baptism, marriage, or burial, knowing such writing to be false,
forged, or altered ; or if any person shall utter any entry in any such register
of any matter relating to any baptism, marriage, or burial, knowing such
entry to be false, forged, or altered, or shall utter any copy of such entry,
knowing such entry to be false, forged or altered, or shall wilfully destroy,
deface, or injure, or cause or permit to be destroyed, defaced, or injured,
any such register or any part thereof ; or shall forge or alter, or shall utter,
knowing the same to be forged or altered, any licence of marriage ; every
such offender shall be guilty of felony, and, being convicted thereof, shall
be liable, at the discretion of the court, to be transported beyond the seas for
life or for any term not less than seven years, or to be imprisoned for any
term not exceeding four years, nor less than two years."

Sect. 21. No rector, vicar, curate, or officiating minister of any parish,
district-parish, or chapelry, who shall discover any error in the form or
substance of the entry in the register of any baptism, marriage, or burial
respectively by him solemnized, shall be liable to any of the penalties herein
mentioned, if he shall, within one calendar month after the discovery of such
error, in the presence of the parent or parents of the child baptized, or of the
parties married, or in the presence of two persons who shall have attended
at any burial, or in the case of the death or absence of the respective parties
aforesaid, then in the presence of the churchwardens or chapelwardens,
correct the entry which shall have been found erroneous, according to the
truth of the case, by entry in the margin of the register wherein such erro-
neous entry shall have been made, without any alteration or obliteration of
the original entry, and shall sign such entry in the margin, and add to such
signature the day of the month and year when such correction shall be
made ; and such correction and signature shall be attested by the parties in
whose presence the same are directed to be made as aforesaid : provided
also, that in the copy of the register which shall be transmitted to the regis-
trar of the diocese, the said rector, vicar, curate, or officiating minister, shall
certify the corrections so made by him as aforesaid.

Sect. 22, after reciting that " copies of the registers of baptisms, marriages,
and burials, such copies being signed and verified by the written declara-
tion of the rector, vicar, curate, or officiating minister of every parish, dis-
trict-parish, and chapelry in England where the ceremonies of baptism,
marriage, and burial may lawfully be performed, are directed by law to be
made and transmitted to the registrar of the diocese within which such
parish, district-parish, or chapelry may be situated : " enacts, " that if any
person shall knowingly and wilfully insert, or cause or permit to be inserted,
in any copy of any register so directed to be transmitted as aforesaid, any
false entry of any matter relating to any baptism, marriage, or burial, or
shall forge or alter, or shall utter, knowing the same to be forged or altered,
any copy of any register so directed to be transmitted as aforesaid, or
shall knowingly and wilfully sign or verify any copy of any register so
directed to be transmitted as aforesaid, which copy shall be false in any part

thereof, knowing the same to be false, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, nor less than one year." 52 Geo. 3, c. 146. transportation for seven years, &c.

See the decisions and law as to forgery in general, *ante*, "*Forgery*," Vol. II.

By the 6 & 7 Wil. IV. c. 86, intituled, "An Act for registering Births, Deaths, and Marriages in England," [17th August, 1836,] reciting, "Whereas it is expedient to provide the means for a complete register of the births, deaths, and marriages of his majesty's subjects in England: and whereas an act passed in the fifty-second year of the reign of his late majesty king George the Third, intituled, 'An Act for the better regulating Parish and other Registers of Births, Baptisms, Marriages, and Burials in England,' and also an act passed in the fourth year of the reign of his late majesty king George the Fourth, intituled, 'An Act for amending the Laws respecting the Solemnization of Marriages in England,' are insufficient for the purpose aforesaid: it is therefore enacted, "that after the 1st day of March, in the year 1837, so much of the said acts as relates to the registration of marriages shall be repealed." 6 & 7 Wil. 4, c. 86. 52 Geo. 3, c. 146. 4 Geo. 4, c. 76.

Sect. 2. "It shall be lawful for his majesty to provide a proper office in London or Westminster, to be called 'The General Register Office,' for keeping a register of all births, deaths, and marriages of his majesty's subjects in England, and to appoint for the said office under the great seal of the United Kingdom a registrar-general of births, deaths, and marriages in England, and from time to time at pleasure to remove the said registrar-general, and appoint some other person in his room." So much of recited acts as relates to registration of marriages repealed. General registry office to be provided in London or Westminster.

Sect. 3. "The lord treasurer or lords commissioners of his majesty's treasury, or any three of them, or the registrar-general, subject to the approval of the said lords commissioners, shall appoint from time to time such officers, clerks, and servants as they shall deem necessary to carry on the business of the general registry office, and at pleasure remove them or any of them; and the said lord treasurer or lords commissioners shall fix the salary of the registrar-general, so that the same shall not at any time exceed the sum of 1000*l*. yearly, and shall fix the salaries of the officers, clerks, and servants in fit proportion according to the duties they may have to perform." Lord treasurer or lords commissioners of his majesty's treasury to appoint officers and fix salary.

Sect. 4. "The salaries of the registrar-general, and of the said officers, clerks, and servants, and the amount of the sums hereinafter provided to be paid to the superintendent-registrars for every entry in the certified copies of the registers, and all expenses of carrying on the business of the general registry office not herein otherwise provided for, shall be paid by the said lord treasurer or lords commissioners of his majesty's treasury out of the consolidated fund of the United Kingdom of Great Britain and Ireland." Salaries to be paid out of the consolidated fund.

Sect. 5. "One of his majesty's principal secretaries of state, or the registrar-general with the approbation of such principal secretary, from time to time may make regulations for the management of the said register office, and for the duties of the registrar-general, clerks, officers, and servants of the said office, and of the registrars, deputy-registrars, and superintendent-registrars hereinafter mentioned, in the execution of this act, so that they be not contrary to the provisions herein contained; and the regulations so made and approved shall be binding on the said registrar-general, clerks, officers, and servants, and on the registrars, deputy-registrars, and superintendent-registrars." Regulations for conduct of officers to be framed under direction of secretary of state.

Sect. 6. "The registrar-general shall send once in every year to one of the principal secretaries of state a general abstract of the numbers of births, deaths, and marriages registered during the foregoing year, in such form as the said secretary from time to time shall require; and every such annual general abstract shall be laid before parliament within one month after receipt thereof, or after the meeting of parliament." Annual abstract of registers to be laid before parliament.

Sect. 7. "The guardians of every union declared under the provisions of an act passed in the fifth and sixth years of his present majesty, intituled, 'An Act for the Amendment and better Administration of the Laws relating Districts to be formed, and registrars and superintendent-re-

6 & 7 Wil. 4, c. 86.

Registrars to be appointed.

& 5 Wil. 4, c. 76.

to the Poor in England and Wales,' and also of every parish or place in which a board of guardians shall have been established under the provisions of the last-named act, shall, on or before the 1st day of October in this year, if the said board of guardians shall have been established before the passing of this act, or within three calendar months next after the establishment of the board, if the said board shall not have been established before the passing of this act, divide the union or the parish or place of which they are the guardians into such and so many districts as they, subject to the approval of the registrar-general, shall think fit; and every such division when made shall be published by the guardians within the union, parish, or place of which they are guardians, in such manner as the said registrar-general shall direct; and every such district shall be called by a distinct name, and shall be a registrar's district; and the guardians shall appoint a person, with such qualifications as the registrar-general may by any general rule declare to be necessary, to be registrar of births and deaths within each district, and in every case of vacancy in the office of registrar shall forthwith fill up the vacancy; and the clerk to the guardians of every such union, parish, or place shall, if he shall think fit to accept such office, and have such qualifications as the registrar-general may by any general rule declare to be necessary, be the superintendent-registrar thereof; and in the event of his refusal or disqualification to act in that capacity, the guardians shall appoint a person, with such qualifications as the registrar-general may by any general rule declare to be necessary, to be the superintendent-registrar of each union, or of such parish or place, and in every case of vacancy of the office of superintendent-registrar shall forthwith fill up the vacancy; and every registrar and superintendent-registrar shall hold his office during the pleasure of the registrar-general."

Officers of unions, &c., being dismissed by guardians, &c., to cease to act under this act.

Sect. 8. "Provided always, that in every case in which the clerk to the guardians of any union, parish, or place, or any other officer of any such union, parish, or place, shall hold any office under this act, and shall be removed by the poor law commissioners from his office in such union, parish, or place, and in every case in which any registrar or superintendent-registrar shall be removed by the registrar-general from his office under this act, notice of such removal shall be forthwith given by advertisement in some newspaper circulating in the county wherein the district for which such officer may act shall be; and every such person shall thenceforth cease to hold his office under this act, and shall be incapable of being re-appointed thereto: provided also, that the appointment of any officer of any such union, parish, or place to any office under this act shall be subject to the approval of the poor law commissioners, except as hereinbefore directed with respect to the clerk to guardians of any such union, parish, or place."

Register offices to be provided in each union.

Sect. 9. "The guardians shall provide and uphold, out of the monies coming to their hands or control as such guardians, a register office, according to a plan to be approved by the registrar-general, for preserving the registers to be deposited therein, as hereinafter provided; and the care of the said office and the custody of the registers deposited therein shall be given to the superintendent-registrar of the union or parish or place having a board of guardians as aforesaid."

Temporary registrars and superintendent registrars to be appointed for parishes not under the poor law act.

Sect. 10. "The poor law commissioners for England and Wales shall, as soon as may be after the said first day of October, form all the parishes, townships, and places in England, in or for which a board of guardians shall not have been then established under the provisions of the said act for the amendment of the laws relating to the poor, into temporary districts, having regard in the formation thereof to the boundaries of parishes and townships, and shall appoint a registrar to each of such temporary districts, subject to being displaced as hereinafter provided; and the registrar-general shall appoint a sufficient number of fit persons to be superintendent-registrars for such temporary districts, subject to being displaced as hereinafter provided, and shall appoint the districts which each shall superintend."

In case of subsequent unions pre-

Sect. 11. "In every case in which a board of guardians shall be established, under the provisions of the said act for the amendment of the laws relating

to the poor, in or for any parish, township, or place forming part of any temporary district in or for which a registrar or superintendent-registrar shall have been previously appointed as last aforesaid, and as soon as a registrar or registrars shall have been appointed for the districts into which the guardians shall have divided the union or parish or place of which they are guardians as aforesaid, and the clerk of the guardians of such union, parish, or place shall have accepted the office of superintendent-registrar, or the said guardians shall have appointed a superintendent-registrar for such districts, in like manner as in the unions formed before the passing of this act, every such parish or place shall cease to be a part of the temporary district to which it was so annexed by the poor law commissioners, and every registrar, deputy-registrar, and superintendent-registrar appointed before the election of such board of guardians as aforesaid in or for such parish, township, or place shall cease to hold their respective offices, so far as relates to such parish, township, or place, unless re-appointed."

6 & 7 Wil. 4, c. 68.

vious appointments to be vacated.

Sect. 12. "For every district for which a registrar of births and deaths shall be appointed by the guardians as aforesaid, the registrar shall have power, subject to the approval of such guardians, and for every district for which a registrar shall be appointed by the said poor law commissioners, such registrar shall have power, subject to the approval of such commissioners, to appoint by writing under his hand a fit person to act as his deputy in case of the illness or unavoidable absence of such registrar; and every such deputy-registrar whilst so acting shall have all the powers and duties and be subject to all the provisions and penalties herein declared concerning registrars, and in case of the death of the registrar shall act as registrar until another registrar is appointed; and every registrar shall be civilly responsible for the acts or omissions of his deputy."

Deputy registrars to be appointed.

Sect. 13. "The appointments of registrars, deputy-registrars, and superintendent-registrars, and the duplicates and certified copies of registers hereinafter mentioned, shall be exempt from all stamp duties."

Appointments to be exempt from stamp duties.

Sect. 14. "The registrar-general shall furnish to every superintendent-registrar, for the use of the registrars under his superintendence, a sufficient number of strong iron boxes to hold the register books to be kept by such registrar; and every such box shall be furnished with a lock and two keys, and no more; and one of such keys shall be kept by the registrar, and the other key shall be kept by the superintendent-registrar; and the register books of each district, while in the custody of the registrar and not in use, shall be always kept in the register box, and the register box shall always be left locked."

Register boxes to be provided.

Sect. 15. "In every case in which any registrar or superintendent-registrar shall be removed from or cease to hold the said office, all register boxes, keys, books, documents, and papers in his possession as such registrar or superintendent-registrar shall be given as soon as conveniently may be to his successor in office; and if any person shall refuse to give up any such box, key, books, documents, or papers in such case as aforesaid, it shall be lawful for any justice of the peace for the county or other jurisdiction where such person shall be or reside, upon application made for that purpose, to issue a warrant under his hand and seal for bringing such person before any two justices of the peace for the said county or other jurisdiction, and upon such person appearing, or not being found, it shall be lawful for such justices to hear and determine the matter in a summary way; and if it shall appear to the justices that any such box, key, books, documents, or papers are in the custody or power of any such person, and that he has refused or wilfully neglected to deliver the same, the said justices are hereby required to commit such offender to the common gaol or house of correction for the said county or jurisdiction, there to remain without bail until he shall have delivered up the same, or until satisfaction shall have been given in respect thereof to the person in whose custody the same ought to be; and the said justices may grant a warrant to search for such box, key, books, documents, or papers, as in the case of stolen goods, in any dwelling-house or other premises in which any credible witness shall prove upon oath before them that

All books, &c., to be transferred on removal of registrar.

6 & 7 Wil. 4, c. 86.

Registrar and deputy to dwell in the district, and their names and additions to be put on their dwelling houses.

Register books to be provided.

Registrars to register births and deaths.

Parents or occupiers of houses in which births or deaths happen, and overseers and coroners in cases of foundlings or exposed dead bodies, to give notice to the registrar.

Parent or occupier of house required to give particulars of birth so far as known.

there is reasonable cause to suspect the same to be; and the same when found shall be delivered to the person in whose custody they ought to be."

Sect. 16. "Every registrar and deputy-registrar shall dwell within the district of which he is registrar or deputy-registrar, and shall cause his name, with the addition of registrar or deputy-registrar (as the case may be) for the district for which he shall be so appointed to be placed in some conspicuous place on or near the outer door of his own dwelling-house; and the superintendent-registrar shall cause to be printed and published in the districts which he shall superintend a list of the name and place of abode of every registrar and deputy-registrar under his superintendence."

Sect. 17. "The registrar-general shall cause to be printed on account of the said register office a sufficient number of register books for making entries of all births, deaths, and marriages of his majesty's subjects in England, according to the forms of schedules (A.) (B.) (C.) to this act annexed; and the said register books shall be of durable materials, and in them shall be printed upon each side of every leaf the heads of information herein required to be known and registered of births, deaths, and marriages respectively; and every page of each of such books shall be numbered progressively from the beginning to the end, beginning with number 1; and every place of entry shall be also numbered progressively from the beginning to the end of the book, beginning with number 1; and every entry shall be divided from the following entry by a printed line."

Sect. 18. "The registrar-general shall furnish to every superintendent-registrar, for the use of the registrars under his superintendence, a sufficient number of register books of births and of register books of deaths, and of forms for certified copies thereof, as hereinafter provided, at a reasonable price, to be fixed from time to time by one of his majesty's principal secretaries of state, the cost whereof shall be borne by the union, parish, or place in or for which the superintendent-registrar is appointed, and shall be paid by the guardians or by the churchwardens and overseers (as the case may be), out of the monies coming to their hands or control as such guardians or churchwardens and overseers, to the registrar, and shall be accounted for by him to the registrar-general; and every registrar shall be authorized and is hereby required to inform himself carefully of every birth and every death which shall happen within his district after the said first day of March, and to learn and register as soon after the event as conveniently may be done, without fee or reward save as hereinafter mentioned, in one of the said books, the particulars required to be registered according to the forms in the said schedules (A.) and (B.) respectively touching every such birth or every such death, as the case may be, which shall not have been already registered, every such entry being made in order from the beginning to the end of the book."

Sect. 19. "The father or mother of any child born, or the occupier of every house or tenement in England in which any birth or death shall happen, after the said first day of March, may, within forty-two days next after the day of such birth or within five days after the day of such death respectively, give notice of such birth or death to the registrar of the district; and in case any new-born child or any dead body shall be found exposed, the overseers of the poor in the case of the new-born child, and the coroner in the case of the dead body, shall forthwith give notice and information thereof, and of the place where such child or dead body was found, to the registrar; and for the purposes of this act the master or keeper of every gaol, prison, or house of correction, or workhouse, hospital, or lunatic asylum, or public or charitable institution, shall be deemed the occupier thereof."

Sect. 20. "The father or mother of every child born in England after the said first day of March, or in case of the death, illness, absence, or inability of the father and mother, the occupier of the house or tenement in which such child shall have been born, shall, within forty-two days next after the day of every such birth, give information, upon being requested so to do, to the said registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered, touching the birth of such child."

Sect. 21. "If any child of an English parent shall be born at sea on board of a British vessel, the captain or commanding officer of the vessel on board of which the said child shall have been born shall forthwith make a minute of the several particulars hereinbefore required to be inserted in the register touching the birth of such child, so far as the same may be known, and the name of the vessel wherein the birth took place, and shall, on the arrival of such vessel in any port of the United Kingdom, or by any other sooner opportunity, send a certificate of the said minute through the post office to the registrar-general, who shall file the same, and enter a copy thereof under his hand in a book to be kept for that purpose in 'the General Register Office,' to be called the 'Marine Register Book,' and shall keep the said book with the other registers, according to the provisions of this act."

6 & 7 Wil. 4, c. 86.

Registry of children born at sea.

Sect. 22. "After the expiration of forty-two days following the day of the birth of any child it shall not be lawful for any registrar to register such birth, save as hereinafter is next mentioned; provided that, in case the birth of any child shall not have been registered according to the provisions hereinbefore contained, it shall be lawful for any person present at the birth of such child, or for the father or guardian thereof, at any time within six calendar months next after the birth, to make a solemn declaration of the particulars required to be known touching the birth of such child, according to the best of his or her knowledge and belief, and it shall thereupon be lawful for the said registrar then and there, in the presence of the superintendent-registrar, to register the birth of the said child according to the information of the person making the said declaration; and in every such case the superintendent-registrar before whom the said declaration is made shall sign the entry of the birth as well as the registrar, and for every such registry as last aforesaid the superintendent-registrar shall be entitled to have a fee of two shillings and sixpence from the person requiring the same to be registered; and the registrar, over and above the fee hereinafter enacted in respect of every birth registered by him, shall be entitled, unless the delay shall have been occasioned by his default, to have a fee of five shillings from the person requiring the same to be registered; and no register of births shall be given in evidence to prove the birth of any child wherein it shall appear that forty-two days have intervened between the day of the birth and the day of the registration of the birth of such child, unless the entry shall be signed by the superintendent-registrar; and every person who shall knowingly register or cause to be registered, the birth of any child, otherwise than hereinbefore is last-mentioned, after the expiration of forty-two days following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding 50*l*."

As to registry after the expiration of forty-two days from the birth of the child.

Sect. 23. "After the expiration of six calendar months following the birth of any child it shall not be lawful for any registrar to register the birth of such child, and no register of births, except in the case of children born at sea, shall be given in evidence to prove the birth of any child wherein it shall appear that six calendar months have intervened between the day of the birth and the day of the registration of the birth of such child; and every person who shall knowingly register or cause to be registered the birth of any child after the expiration of six calendar months following the day of the birth of such child shall forfeit and pay for every such offence a sum not exceeding 50*l*."

Births not to be registered after six months.

Sect. 24. "If any child born in England whose birth shall have been registered as aforesaid shall, within six calendar months next after it shall have been so registered, have any name given to it in baptism, the parent or guardian of such child, or other person procuring such name to be given, may, within seven days next after such baptism, procure and deliver to the registrar or superintendent-registrar, in whose custody the register of the birth of the child may then happen to be, a certificate, according to the form of schedule (G.) to this act annexed, signed by the minister who shall have performed the rite of baptism, which certificate such minister is hereby required to deliver immediately after the baptism, whenever the same shall be then demanded, on payment of the fee of 1*s*., which he shall be therefore

Name given in baptism may be registered within six months after registration of birth.

6 & 7 Wil. 4, c. 86.

entitled to receive; and the said registrar or superintendent-registrar, upon receipt of such certificate and on payment of the fee of 1s., which he shall be therefore entitled to receive, shall, without any erasure of the original entry, forthwith register therein that the child was baptized by such name, and the registrar shall thereupon certify upon the said certificate the additional entry so made, and shall forthwith send the said certificate through the post office to the registrar-general."

Some person present at death, or occupier of house, required to give particulars of death, so far as known.

Registrar to make entry of finding of jury upon coroners' inquests.

Registry of persons dying at sea.

Registrar to give certificate of registry of death to undertaker, who shall deliver the same to the minister or officiating person.

Coroner may order body to be buried, and give certificate thereof.

No dead body to be buried without certificate of registry or of inquest.

Penalty, 10l.

Register to be signed by the informant.

Registrars to make out accounts quarterly.

Sect. 25. "Some person present at the death, or in attendance during the last illness of every person dying in England after the said first day of March, or in case of the death, illness, inability, or default of all such persons, the occupier of the house or tenement, or if the occupier be the person who shall have died, some inmate of the house or tenement in which such death shall have happened, shall, within eight days next after the day of such death, give information, upon being requested so to do, to the said registrar, according to the best of his or her knowledge and belief of the several particulars hereby required to be known and registered, touching the death of such person: provided always, that in every case in which an inquest shall be held on any dead body the jury shall inquire of the particulars herein required to be registered concerning the death, and the coroner shall inform the registrar of the finding of the jury, and the registrar shall make the entry accordingly."

Sect. 26. "If any of his majesty's English subjects shall die at sea on board of a British vessel, the captain or commanding officer of the vessel on board of which such death shall have happened shall forthwith make a minute of the several particulars hereinbefore required to be inserted in the register touching such death, so far as the same may be known, and the name of the vessel wherein the death took place, and shall, on the arrival of such vessel in any port of the United Kingdom, or by any other sooner opportunity, send a certificate of the said minute through the post office to the registrar-general, who shall file the same, and enter a copy thereof under his hand in the marine register book, and keep the same with the other registers, according to the provisions of this act."

Sect. 27. "Every registrar, immediately upon registering any death, or as soon thereafter as he shall be required so to do, shall, without fee or reward, deliver to the undertaker or other person having charge of the funeral a certificate under his hand, according to the form of schedule (E.) to this act annexed, that such death has been duly registered, and such certificate shall be delivered by such undertaker or other person to the minister or officiating person who shall be required to bury or to perform any religious service for the burial of the dead body, and if any dead body shall be buried for which no such certificate shall have been so delivered, the person who shall bury or perform any funeral or any religious service for the burial shall forthwith give notice thereof to the registrar: provided always, that the coroner, upon holding any inquest, may order the body to be buried, if he shall think fit, before registry of the death, and shall in such case give a certificate of his order in writing, under his hand, according to the form of schedule (F.) to this act annexed, to such undertaker or other person having charge of the funeral, which shall be delivered as aforesaid; and every person who shall bury or perform any funeral or any religious service for the burial of any dead body for which no certificate shall have been duly made and delivered as aforesaid, either by the registrar or coroner, and who shall not within seven days give notice thereof to the registrar, shall forfeit and pay any sum not exceeding 10l. for every such offence."

Sect. 28. "Every person by whom the information contained in any register of birth or death under this act shall have been given shall sign his name, description, and place of abode in the register; and no register of birth or death, according to this act, shall be given in evidence which shall not be signed by some person professing to be the informant, and to be such party as is herein required to give such information to the registrar."

Sect. 29. "Every registrar shall make out an account four times in every year of the number of births and deaths which he shall have registered since

the last quarterly account, and the superintendent-registrar shall verify and sign the same, and the guardians or overseers of the parish, township, or place in or for which he shall be registrar, on production of the said account so verified and signed, shall pay to the said registrar, out of the monies in their hands or power as such guardians or overseers, such sums as he shall be entitled to receive on the said account according to the following scale; (that is to say,) for the first twenty entries of births and deaths in every year which he shall have registered, whether the same be of births or of deaths indiscriminately, 2s. 6d. each, and 1s. for every subsequent entry of births or deaths in each year; and in the case of an union the said several sums shall be charged to the account of the parishes in which such births or deaths respectively shall have occurred."

6 & 7 Wil. 4, c. 86.

Guardians or overseers to pay registrars.

Sect. 30. "The registrar-general shall furnish or cause to be furnished to the rector, vicar, or curate of every church and chapel in England wherein marriages may lawfully be solemnized, and also to every person to whom the recording clerk of the society of friends commonly called Quakers, at their central office in London, shall from time to time certify in writing under his hand to the registrar-general to be a registering officer in England of the said society, and also to every person whom the president for the time being of the London committee of deputies of the British Jews shall from time to time certify in writing under his hand to the registrar-general to be the secretary of a synagogue in England of persons professing the Jewish religion, a sufficient number in duplicate of marriage register books, and forms for certified copies thereof, as hereinafter provided; and the cost of all such books and forms shall be paid by the churchwardens and overseers of the parish or chapelry out of the monies in their hands as such churchwardens and overseers, or by the registering officer or secretary respectively, to whom the same shall be furnished."

Marriage register books to be provided.

Sect. 31. "Every clergyman of the church of England, immediately after every office of matrimony solemnized by him, shall register in duplicate in two of the marriage register books the several particulars relating to that marriage according to the form of the said schedule (C.); and every such registering officer of the Quakers, as soon as conveniently may be after the solemnization of any marriage between two Quakers in the district for which he is registering officer, and every such secretary of a synagogue, immediately after every marriage solemnized between any two persons professing the Jewish religion, of whom the husband shall belong to the synagogue whereof he is secretary, shall register or cause to be registered in duplicate in two of the said marriage register books the several particulars relating to that marriage according to the form of the said schedule (C.); and every such registering officer or secretary, whether he shall or shall not be present at such marriage, shall satisfy himself that the proceedings in relation thereto have been conformable to the usages of the said society, or of the persons professing the Jewish religion, as the case may be; and every such entry as hereinbefore is mentioned (whether made by such clergyman or by such registering officer or secretary respectively as aforesaid) shall be signed by the clergyman or by the said registering officer or secretary as the case may be, and by the parties married, and by two witnesses, and shall be made in order from the beginning to the end of each book, and the number of the place of entry in each duplicate marriage register book shall be the same."

Marriage registers to be kept in duplicate.

Sect. 32. "In the months of April, July, October, and January, on such days as shall from time to time be appointed by the registrar-general, every registrar shall make, and deliver to the superintendent-registrar of his district, on durable materials, a true copy, certified by him under his hand according to the form of schedule (D.) to this act annexed, of all the entries of births and deaths in the register book kept by him since the last certificate, the first of such certificates to be given in the month of July in the year 1837, and to contain all the entries made up to that time; and the superintendent-registrar shall verify the same, and if found to be correct shall certify the same under his hand to be a true copy; and if there shall have been no birth or death registered since the delivery of the last certificate the registrar

Certified copies of registers of births and deaths to be sent quarterly, and the register books when filled, to the superintendent-registrar.

6 & 7 Wil. 4, c. 86.

shall certify the fact, and such certificate shall be delivered to the superintendent-registrar as aforesaid, and countersigned by him; and the registrar shall keep safely each of the said register books until it shall be filled, and shall then deliver it to the superintendent-registrar, to be kept by him with the records of his office."

Duplicates and certified copies of registers of marriages to be sent to superintendent-registrar.

Sect. 33. "The rector, vicar, or curate of every such church and chapel, and every such registering officer and secretary, shall, in the months of April, July, October, and January respectively, make and deliver to the superintendent-registrar of the district in which such church or chapel may be situated, or which may be assigned by the registrar-general to such registering officer or secretary, on durable materials, a true copy certified by him under his hand of all the entries of marriages in the register book kept by him since the last certificate, the first of such certificates to be given in the month of July, 1837, and to contain all the entries made up to that time, and if there shall have been no marriage entered therein since the last certificate, shall certify the fact under his hand, and shall keep the said marriage register books safely until the same shall be filled; and one copy of every such register book, when filled, shall be delivered to the superintendent-registrar of the district in which such church or chapel may be situated, or which shall have been assigned as aforesaid to such registering officer or secretary, and the other copy of every such register book kept by any such rector, vicar, or curate, shall remain in the keeping of such rector, vicar, or curate, and shall be kept by him with the registers of baptisms and burials of the parish or chapelry within which the marriages registered therein shall have been solemnized; and the other copy of every such register book of marriages among the people called Quakers, and among the persons professing the Jewish religion respectively, shall remain under the care of the said people or persons respectively, to be kept with their other registers and records, and shall, for the purposes of this act, be still deemed to be in the keeping of the registering officer or secretary for the time being respectively."

Superintendent-registrars to send certified copies of registers to the general register office.

Sect. 34. "Every superintendent-registrar shall, four times in every year, on such days as shall be therefore named by the registrar-general, send to the registrar-general all the certified copies of the registers of births, deaths, and marriages which he shall have so received during the three calendar months next preceding such quarterly days of transmission respectively; and if it shall appear, by interruption of the regular progression of numbers or otherwise, that the copy of any part of any book has not been duly delivered to him, he shall procure as far as possible, consistently with the provisions of this act, that the same may be remedied and supplied; and every such superintendent-registrar shall be entitled to receive the sum of 2*d.* for every entry in such certified copies; and every superintendent-registrar shall make out an account four times in every year of the number of entries in the certified copies sent to him during the last quarter, and the certified copies so sent to the general registry office shall be thereafter kept in the said office in such order and manner as the registrar-general, under the direction of the secretary of state, shall think fit, so that the same may be most readily seen and examined."

Searches may be made, and certificates given by the persons keeping the registers.

Sect. 35. "Every rector, vicar, or curate, and every registrar, registering officer, and secretary who shall have the keeping for the time being of any register book of births, deaths, or marriages, shall at all reasonable times allow searches to be made of any register book in his keeping, and shall give a copy certified under his hand of any entry or entries in the same, on payment of the fee hereinafter mentioned; (that is to say,) for every search extending over a period not more than one year the sum of 1*s.*, and 6*d.* additional for every additional year, and the sum of 2*s.* 6*d.* for every single certificate."

Indexes to be made at the superintendent-registrar's office, and persons allowed to search them.

Sect. 36. "Every superintendent-registrar shall cause indexes of the register books in his office to be made, and kept with the other records of his office; and that every person shall be entitled at all reasonable hours to search the said indexes, and to have a certified copy of any entry or entries in the said register books under the hand of the superintendent-registrar, on

payment of the fees hereinafter mentioned ; (that is to say,) for every general search the sum of 5s., and for every particular search the sum of 1s., and for every such certified copy the sum of 2s. 6d." 6 & 7 Wil. 4, c. 86.

Sect. 37. "The registrar-general shall cause indexes of all the said certified copies of the registers to be made and kept in the general register office; and that every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said indexes between the hours of ten in the morning and four in the afternoon of every day except Sundays, Christmas day, and Good Friday, and to have a certified copy of any entry in the said certified copies of the registers; and for every general search of the said indexes shall be paid the sum of 20s., and for every particular search the sum of 1s., and for every such certified copy the sum of 2s. 6d., and no more, shall be paid to the registrar-general or such other officer as shall be appointed for that purpose on his account."

Indexes to be kept at general register office, searches allowed, and certified copies given.

Sect. 38. "The registrar-general shall cause to be made a seal of the said register office, and the registrar-general shall cause to be sealed or stamped therewith all certified copies of entries given in the said office; and all certified copies of entries purporting to be sealed or stamped with the seal of the said register office shall be received as evidence of the birth, death, or marriage to which the same relates, without any further or other proof of such entry; and no certified copy purporting to be given in the said office shall be of any force or effect which is not sealed or stamped as aforesaid."

Certified copies given at general registry office to be sealed.

Sect. 39. "Every sum received under the provisions of this act by or on account of the registrar-general shall be accounted for and paid by the registrar-general, at such times as the lords commissioners of the treasury from time to time shall direct, into the Bank of England, to the credit of his majesty's exchequer, according to the provisions of an act passed in the fourth and fifth years of his majesty, intituled, 'An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster.'"

Fees for searches in the general register office to be accounted for to the exchequer. 4 & 5 Wil. 4, c. 15.

Sect. 40. "It shall be lawful for every clergyman of the church of England who shall solemnize any marriage in England, and for every registering officer of the Quakers, and every secretary of a synagogue, after the said first day of March, to ask of the parties married the several particulars herein required to be registered touching such marriage."

Clergymen, &c., may ask parties married the particulars required.

Sect. 41. "Every person who shall wilfully make or cause to be made, for the purpose of being inserted in any register of birth, death, or marriage, any false statement touching any of the particulars herein required to be known and registered, shall be subject to the same pains and penalties as if he were guilty of perjury."

Penalty for wilfully giving false information.

Sect. 42. "Every person who shall refuse or without reasonable cause omit to register any marriage solemnized by him, or which he ought to register, and every registrar who shall refuse or without reasonable cause omit to register any birth or death of which he shall have had due notice as aforesaid, and every person having the custody of any register book, or certified copy thereof or of any part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his keeping, shall forfeit a sum not exceeding 50*l.* for every such offence."

Penalty for not duly registering births, deaths, and marriages, or for losing or injuring the registers.

Sect. 43. "Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such register book, or any part or certified copy of any part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such register book or certified copy thereof, or shall wilfully insert or cause to be inserted in any register book or certified copy thereof any false entry of any birth, death, or marriage, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any register book, knowing the same register to be false in any part thereof, or shall forge or counterfeit the seal of the register office, shall be guilty of felony."

Penalty for destroying or falsifying register books.

Sect. 44. Provided always, "that no person charged with the duty of registering any birth, death, or marriage, who shall discover any error to have been committed in the form or substance of any such entry, shall be therefore liable to any of the penalties aforesaid if within one calendar

Accidental errors may be corrected.

6 & 7 Wil. 4, c. 86. month next after the discovery of such error, in the presence of the parents of the child whose birth may have been so registered, or of the parties married, or of two persons attending upon any person in his or her last illness whose death may have been so registered, or in case of the death or absence of the respective parties aforesaid, then in the presence of the superintendent-registrar and of two other credible witnesses who shall respectively attest the same, he shall correct the erroneous entry, according to the truth of the case, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made: provided also, that in the case of a marriage register he shall make the like marginal entry, attested in like manner in the duplicate marriage register book to be made by him as aforesaid, and in every case shall make the like alteration in the certified copy of the register book to be made by him as aforesaid, or in case such certified copy shall have been already made, provided he shall make and deliver in like manner a separate certified copy of the original erroneous entry, and of the marginal correction therein made."

Pecovery of penalties.

Sect. 45. "All fines and forfeitures by this act imposed, unless otherwise directed, shall be recovered before any two justices of the peace for the county, city, or place where the offence shall have happened, upon the information or complaint of any person; and if on the conviction of the offender, either on his or her confession, or by the oath of any one or more credible witness or witnesses, (which oath such justices are hereby empowered to administer,) such fines or forfeitures, with the costs of the conviction, shall not be forthwith paid, the same shall be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such justices; and for want of distress such justices may commit every such offender to the common gaol or house of correction for the county, city, or place where the offender shall be committed, without bail or mainprize, for any term not exceeding one calendar month, unless such fine and forfeiture, and all reasonable charges attending the recovery thereof, shall be sooner paid; and one moiety of all such fines and forfeitures shall go to the person who shall inform and sue or prosecute for the same, and the other moiety shall go to the registrar-general, or to such other person as the lords commissioners of the treasury shall appoint, for the use of his majesty; and no distress made by virtue of this act shall be deemed unlawful, nor shall the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, or warrant of distress, or on account of any irregularity which shall be afterwards committed by the party distraining, but the person or persons aggrieved by such irregularity shall recover full satisfaction for the special damages sustained in an action on the case."

Appeal.

Sect. 46. "In all cases where the sum adjudged to be paid on any such summary conviction shall exceed 5*l.*, any person convicted may appeal to the next court of general or quarter sessions which shall be holden not sooner than twelve days after the day of such conviction for the county or other district wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizances being entered into, the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs, to either party, as to the court shall seem meet, and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment."

No certiorari.

Sect. 47. "No such conviction or adjudication made on appeal therefrom

shall be quashed for want of form, or be removed by certiorari or otherwise into any of his majesty's superior courts of record, and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a valid conviction to sustain the same." 6 & 7 Wil. 4, c. 86.
Want of form.

Sect. 48. "The registrar-general may receive and send by the general post from and to places in England all letters and packets relating exclusively to the execution of this act free from the duty of postage, provided that such letters and packets as shall be sent to the registrar-general be directed to the 'Registrar General of Births, Deaths, and Marriages,' at his office, and that all such letters and packets as shall be sent by the registrar-general shall be in covers, with the words 'Registrar General of Births, Deaths, and Marriages' printed on the same, and be sealed with the seal of the said register office, and be signed on the outside thereof under such words with the name of such person as the said registrar-general, with the consent of the lords commissioners of the treasury, or any three or more of them, shall appoint, in his own handwriting, (such name to be from time to time sent to the secretary of the general post-office in London,) and under such other regulations as the said lords commissioners, or any three or more of them, shall think fit; and if the person so to be appointed shall subscribe or seal any letter or packet whatever, except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate exclusively to the execution of this act, or if the person so to be appointed, or any other person, shall send or cause to be sent under any such cover any letter, paper, or writing, or any inclosure, other than shall relate exclusively to the execution of this act, every person so offending shall forfeit and pay the sum of 100*l.*, and be dismissed from his office; one moiety of such penalty to be paid to the use of his majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same; to be sued for and recovered in any of his majesty's courts of record at Westminster."

Correspondence of registrar-general relating to this act to be free of postage.

Sect. 49. Provided always, "that nothing herein contained shall affect the registration of baptisms or burials as now by law established, or the right of any officiating minister to receive the fees now usually paid for the performance or registration of any baptism, burial, or marriage."

Registers of baptisms and burials may be kept as heretofore.

Sect. 50. "The said registrar-general shall, within three calendar months after his appointment to such office, furnish to the respective guardians of every union, parish, or place printed notices, which the said guardians shall, as soon as conveniently may be after the receipt thereof, cause to be fixed or placed on the outside of the several church and chapel doors, or other public and conspicuous buildings or places, within their respective unions, parishes, or places, and which said notices shall specify the several acts required to be done by persons who may be desirous of solemnizing marriage, or of registering the birth of any child or the death of any person, under the provisions of this act."

Registrar-general to furnish notices to guardians of unions, &c., specifying acts required to be done by parties registering.

Parish and other Registers.

SCHEDULES to the 52 Geo. III. c. 146.

Schedule (A.)

1.						
Baptisms solemnized in the Parish of <i>St. A.</i> , in the county of <i>B.</i> , in the year one thousand eight hundred and .						
When Bap- tized.	Child's Christian Name.	Parents' Name.		Abode.	Quality, Trade, or Profession.	By whom the Cere- mony was performed.
		Christian.	Surname.			
18—. 1st February No. 1.	John Son of	William Elizabeth		Lambeth.		
3rd March No. 2.	Ann Daughter of	Henry Martha		Fulham.		

Schedule (B.) (a).

1.					
Marriages solemnized in the Parish of <i>St. A.</i> , in the County of <i>B.</i> , in the year one thousand eight hundred and .					
[<i>N. B.</i> —The following form of entry is not precisely like the one prescribed by the schedule (B.) of the 52 Geo. III. c. 146, but is framed to meet the provision of and form given by the 4 Geo. IV. c. 76, s. 28, which see, <i>ante</i> , " Marriage ," Vol. III. (a).]					
A. B. of { the this } Parish, and C. D. of { the this } Parish, were married in this { Church } by { Banns, } with consent { Chapel } { Licence, } of { Parents, } this day of in the year . { Guardians, } By me, J. J. { Rector, Vicar, Curate. This marriage was solemnized between us { A. B. C. D. In the presence of { E. F. G. H. (a)					

(a) The 6 & 7 Wil. IV. c. 86, *ante*, repeals so much of the 52 Geo. III. c. 146, and 4 Geo. IV. c. 76, as relates to the registration of marriages.

Schedule (C.)

1.				
Burials in the Parish of <i>A.</i> , in the County of <i>B.</i> , in the year one thousand eight hundred and				
Name.	Abode.	When Buried.	Age.	By whom the Ceremony was performed.
John Wilson. No.	Duke Street, Westminster.	1813, 1st May.	62.	

Schedule (D.)

I, , do hereby certify, that I did, on the day of , baptize according to the rites of the United Church of England and Ireland, son [or, "daughter"] of and his wife, by the name of .

To the Rector [or, as the case may be] of .

I, , do hereby certify, that on the day of , A. B. of , aged , was buried in [stating the place of burial], and that the ceremony of burial was performed according to the rites of the United Church of England and Ireland, by me,

To the Rector [or, as the case may be] of .

Schedule (E.)

To the Registrar of the Diocese of , at .

*A. B. } Churchwardens [or, "Chapelwardens"] of the Parish [or, Chapelry"]
C. D. } of [or, such other description as the case shall require.]*

SCHEDULES to the 6 & 7 WIL. IV. c. 86.

SCHEDULE (A.)

1836.—BIRTHS in the District of <i>Marylebone, North</i> , in the County of <i>Middlesex</i> .										
No.	When Born.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profes- sion of Father.	Signature, Description, and Residence of Informant.	When Registered.	Signature of Registrar.	Baptismal Name, if added after Registration of Birth.
1	7th January.	James.	Boy.	William Green.	Rebecca Green, formerly Jennings.	Carpenter.	William Green, Father, Carpenter, 17, North Street, Marylebone.	9th January.	John Cox, Registrar.	

The Words and Figures in *Italics* in this Schedule to be filled in as the case may be.

SCHEDULE (B.)

1836.—DEATHS in the District of <i>Marylebone, North</i> , in the County of <i>Middlesex</i> .									
No.	When died.	Name and Surname.	Sex.	Age.	Rank or Profession.	Cause of Death.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.
17	4th February.	William Green.	Male.	43	Carpenter.		Rebecca Green, Widow, 17, North Street, Marylebone.	5th February.	John Cox, Registrar.

The Words and Figures in *Italics* in this Schedule to be filled in according as the case may be.

SCHEDULE (C.)

1836.—MARRIAGES solemnized at the Parish Church in the Parish of Marylebone, in the County of Middlesex.									
No.	When married.	Name and Surname.	Age.	Condition.	Rank or Profession.	Residence at the Time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.	
1	17 March, 1836.	William Hastings.	Of full Age.	Bachelor.	Carpenter.	3, South Street.	Peter Hastings.	Upholsterer.	
		Sophia Ann Mitchell.	Minor	Spinster.	—	17, High Street.	Geoffry Mitchell.	Butcher.	

Married in the Parish Church, according to the Rites and Ceremonies of the Established Church, by Licence, or after Banns, by me,
James Hollingshead, Vicar.

This Marriage was solemnized { William Hastings, } in the { John Hastings.
between us, { Sophia Anne Mitchell, } Presence of us, { Geoffry Mitchell.

The Words and Figures in Italics in this Schedule to be filled in as the case may be.

“ SCHEDULE (D.)

“ I, John Cox, registrar of births and deaths in the district of Marylebone North, in the county of Middlesex, do hereby certify, that this is a true copy of the registrar's book of births [or, deaths] within the said district, from the entry of the birth [or, death] of James Green, No. 1, to the entry of the birth [or, death] of William Strange, No. 34. Witness my hand this seventh day of March, 1838.
“ John Cox, Registrar.”

The words and figures in italics in this Schedule to be filled in as the case may be.

Parliament.

" SCHEDULE (E.)

" I, *John Cox*, registrar of births and deaths in the *district of Marylebone, North*, in the county of *Middlesex*, do hereby certify, that the death of *Henry Hastings* was duly registered by me on the *seventh* day of *March*, 1836. Witness my hand this *eighth* day of *March*, 1836. " *John Cox*, Registrar."

" SCHEDULE (F.)

" I, *James Smith*, coroner for the county of *Dorset*, do hereby order the burial of the body now shown to the inquest jury as the body of *John Jones*. Witness my hand this *eighth* day of *March*, 1836.

" *James Smith*, Coroner."

" SCHEDULE (G.)

" I, *Gilbert Elliott*, vicar of *Barming*, in the county of *Kent*, do hereby certify, that I have this day baptized, by the name of *Thomas*, a *male* child, produced to me by *William Green*, as the son of *William Green* and *Rebecca Green*, and declared by the said *William Green* to have been born at *Marylebone*, in the county of *Middlesex*, on the *seventh* day of *January*, 1836. Witness my hand this *first* day of *December*, 1838.

" *Gilbert Elliot*, Vicar."

The words and figures in *Italics* in the above Schedules to be filled in as the case may be.

Parliament.

THE decisions of the Committees of the House of Commons, and of the Revising Barristers, under the recent Statutes for the Amendment of the Representation of the People, have been so various and conflicting, in consequence of the obscurity and vagueness of many of the clauses of the 2 Wil. IV. c. 45, (more generally known as the Reform Bill), as to preclude us from devoting to this portion of the work the very extended space that any attempt to reconcile the adjudged cases would necessarily occupy. It has been therefore deemed sufficient for the general utility of the work to give copious extracts from the various Acts of Parliament relating to the Law of Election, and to confine ourselves to occasional references to those cases that appear to have received the most uniform decision, and thus to deduce as clear a construction of the laws now in force as our space and circumstances will permit. A more lengthy exposition has been rendered the less necessary in consequence of the previous publication of Treatises devoted exclusively to this subject: and as the Acts of the present reign have effected the most considerable changes in the system of Representation, a general understanding of the subject may be gathered from the ample references we have given to those Statutes.

To afford a greater facility of reference, we have divided the subject into the following heads; under which are treated the various rights, duties, powers, and liabilities of the Electors, Candidates, and Officers, in their proper order, viz. :—

- I. *Counties empowered to send additional Members to Parliament—Boroughs disfranchised and enfranchised*, 13.
- II. *Qualification of Electors to vote in the Election of Members for Counties*, 16.
- III. *The like for Boroughs*, 22.
- IV. *The like of Burgesses, Freemen, and Liverymen*, 24.
- V. *General Disqualification of Electors*, 25.
- VI. *Registration of Electors for Counties, and Duties of Overseers therein*, 27.
- VII. *The like for Boroughs*, 29.
- VIII. *Appointment and Duties of Revising Barristers for Counties*, 32.
- IX. *The like for Boroughs*, 33.
- X. *Proceedings prior to and at the Election of Members for Counties*, 37.
- XI. *The like for Boroughs*, 40.

- XII. *General Matters previous to the Election*, 46.
- XIII. *Qualification of Candidates*, 50.
- XIV. *Returning Officers—Return—and Expenses of Election*, 53.
- XV. *Freedom of Election*, 55.
- XVI. *Petition against Return*, 58.
- XVII. *Privilege of Parliament*, 59.
- XVIII. *Duration of Parliament, and Date of Acts of Parliament*, 61.
- XIX. *Schedules and General Forms referred to by 2 Will. IV. c. 45*, 62.
- XX. *Divisions of Counties and Boundaries of Boroughs defined*, 75.

I. Counties empowered to send additional Members to Parliament —Boroughs disfranchised and enfranchised.

By an Act passed in the 2nd year of his present Majesty, cap. 45, intituled "An Act to amend the Representation of the People in England and Wales," after reciting that it is expedient to take effectual measures for correcting divers abuses that have long prevailed in the choice of members to serve in the Commons House of Parliament, to deprive many inconsiderable places of the right of returning members, to grant such privilege to large, populous, and wealthy towns, to increase the number of knights of the shire, to extend the elective franchise to many of His Majesty's subjects who have not heretofore enjoyed the same, and to diminish the expense of elections; it is enacted, "that each of the boroughs enumerated in the schedule marked (A.) to this act annexed (that is to say), Old Sarum, Newtown, St. Michael's or Midshall, Gatton, Bramber, Bossiney, Dunwich, Ludgershall, St. Mawe's, Beeralston, West Looe, St. Germain's, Newport, Blechingley, Aldborough, Camelford, Hindon, East Looe, Corfe Castle, Great Bedwin, Yarmouth, Queenborough, Castle Rising, East Grinstead, Higham Ferrers, Wendover, Weobly, Winchelsea, Tregony, Haslemere, Saltash, Orford, Callington, Newton, Ilchester, Boroughbridge, Stockbridge, New Romney, Hedon, Plympton, Seaford, Heytesbury, Steyning, Whitchurch, Wootton Bassett, Downton, Fowey, Milborne Port, Aldeburgh, Minehead, Bishop's Castle, Okehampton, Appleby, Lostwithiel, Brackley, and Amersham, shall, from and after the end of this present parliament, cease to return any member or members to serve in parliament."

Boroughs ceasing to send members to parliament.

By sect. 2, "each of the boroughs enumerated in the schedule marked (B.) to the act annexed (that is to say), Petersfield, Ashburton, Eye, Westbury, Wareham, Midhurst, Woodstock, Wilton, Malmesbury, Liskeard, Reigate, Hythe, Droitwich, Lyme Regis, Launceston, Shaftesbury, Thirsk, Christchurch, Horsham, Great Grimsby, Calne, Arundel, St. Ives, Rye, Clitheroe, Morpeth, Helston, North Allerton, Wallingford, and Dartmouth, from and after the end of the then Parliament, to return one member and no more to serve in Parliament."

Boroughs to return one member only.

By sect. 3, "each of the places named in the schedule marked (C.) to this act annexed (that is to say), Manchester, Birmingham, Leeds, Greenwich, Sheffield, Sunderland, Devonport, Wolverhampton, Tower Hamlets, Finsbury, Mary-le-bone, Lambeth, Bolton, Bradford, Blackburn, Brighton, Halifax, Macclesfield, Oldham, Stockport, Stoke-upon-Trent, and Stroud, shall for the purposes of this act be a borough, and shall as such borough include the place or places respectively which shall be comprehended within the boundaries of such borough, as such boundaries shall be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, shall be deemed and taken to be part of this act, as fully and effectually as if the same were incorporated herewith; and that each of the said boroughs named in the said schedule (C.) shall from and after the end of this present parliament return two members to serve in Parliament."

New boroughs to return two members.

By sect. 4, "each of the places named in the schedule marked (D.) to the New boroughs to

(1.) *Franchise.*

return one member.

2 & 3 W. 4, c. 64,
post, 75.

Shoreham, Crick-
lade, Aylesbury,
and East Retford,
to include certain
adjacent districts.

Weymouth and
Melcombe Regis
to return two
members only.

Boundaries of
existing boroughs
in England to be
settled.

2 & 3 W. 4, c. 64,
post, 75.

Places in Wales
to have a share in
elections for the
shire-towns.

Boundaries of
shire-towns and
places in Wales to
be settled.

2 & 3 W. 4, c. 64,
post, 75.

Swansea, Loughor,
Neath, Aberavon,

act annexed, (that is to say,) Ashton-under-Lyne, Bury, Chatham, Cheltenham, Dudley, Frome, Gateshead, Huddersfield, Kidderminster, Kendal, Rochdale, Salford, South Shields, Tynemouth, Wakefield, Walsall, Warrington, Whitby, Whitehaven, and Merthyr Tydvil, shall for the purposes of the act be a borough, and shall as such borough include the place or places respectively which shall be comprehended within the boundaries of such borough, as such boundaries shall be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, shall be deemed and taken to be part of this act as fully and effectually as if the same were incorporated herewith; and each of the said boroughs named in the said schedule (D.) shall from and after the end of this present parliament return one member to serve in parliament."

By sect. 5, "the borough of New Shoreham shall for the purposes of this act include the whole of the Rape of Bramber, in the county of Sussex, save and except such parts of the said Rape as shall be included in the borough of Horsham by an act to be passed for that purpose in this present parliament; and that the borough of Cricklade shall for the purposes of this act include the hundreds and divisions of Highworth, Cricklade, Staple, Kingsbridge, and Malmsbury, in the county of Wilts, save and except such parts of the said hundred of Malmsbury as shall be included in the borough of Malmsbury by an act to be passed for that purpose in this present parliament; and that the borough of Aylesbury shall for the purposes of this act include the three hundreds of Aylesbury in the county of Buckingham; and the borough of East Retford shall for the purposes of this act include the hundred of Bassetlaw in the county of Nottingham, and all places locally situate within the outside boundary or limit of the hundred of Bassetlaw, or surrounded by such boundary and by any part of the county of Lincoln or county of York."

By sect. 6, "the borough of Weymouth and Melcombe Regis shall from and after the end of this present parliament return two members, and no more, to serve in parliament; and that the borough of Penryn shall for the purposes of this act include the town of Falmouth; and the borough of Sandwich shall for the purposes of this act include the parishes of Deal and Walmer."

By sect. 7, "every city and borough in England which now returning a member or members to serve in parliament, and every place sharing in the election therewith, (except the several boroughs enumerated in the said schedule (A.), and except the several boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford,) shall, and each of the said boroughs of Penryn and Sandwich also shall, for the purposes of this act, include the place or places respectively which shall be comprehended within the boundaries of every such city, borough, or place, as such boundaries shall be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, shall be deemed and taken to be part of this act as fully and effectually as if the same were incorporated herewith."

By sect. 8, "each of the places named in the first column of the schedule (E.) to this act annexed shall have a share in the election of a member to serve in all future parliaments for the shire-town or borough which is mentioned in conjunction therewith, and named in the second column of the said schedule (E.)"

By sect. 9, "each of the places named in the first column of the said schedule (E.), and each of the shire-towns or boroughs named in the second column of the said schedule (E.), and the borough of Brecon, shall for the purposes of this act include the place or places respectively which shall be comprehended within the boundaries of each of the said places, shire-towns, and boroughs respectively, as such boundaries shall be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, shall be deemed and taken to be part of this act, as fully and effectually as if the same were incorporated herewith."

By sect. 10, "each of the towns of Swansea, Loughor, Neath, Aberavon, and Kenfig shall for the purposes of this act include the place or places

respectively which shall be comprehended within the boundaries of each of the said towns, as such boundaries shall be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, shall be deemed and taken to be part of this act as fully and effectually as if the same were incorporated herewith; and the said five towns, so including as aforesaid, shall for the purposes of this act be one borough, and shall as such borough, from and after the end of this present parliament, return one member to serve in parliament, and the portreeve of Swansea shall be the returning officer for the said borough; and no person by reason of any right accruing in any of the said five towns, shall have any vote in the election of a member to serve in any future parliament for the borough of Cardiff."

(1.) *Franchise.*

and Kenfig to form one borough, and electors thereof not to vote for a member for Cardiff.

2 & 3 W. 4, c. 64, *post*, 75.

By sect. 12, "in all future parliaments there shall be six knights of the shire, instead of four, to serve for the county of York, (that is to say,) two knights for each of the three Ridings of the said county, to be elected in the same manner, and by the same classes and descriptions of voters, and in respect of the same several rights of voting, as if each of the three Ridings were a separate county; and the court for the election of knights of the shire for the North Riding of the said county shall be holden at the city of York, and the court for the election of knights of the shire for the West Riding of the said county shall be holden at Wakefield, and the court for the election of knights of the shire for the East Riding of the said county shall be holden at Beverley."

Two knights for each riding of Yorkshire.

By sect. 13, "in all future parliaments there shall be four knights of the shire, instead of two, to serve for the county of Lincoln, (that is to say,) two for the parts of Lindsey in the said county, and two for the parts of Kesteven and Holland in the same county; and such four knights shall be chosen in the same manner, and by the same classes and description of voters, and in respect of the same several rights of voting, as if the said parts of Lindsey were a separate county, and the said parts of Kesteven and Holland together were also a separate county; and the court for the election of knights of the shire for the parts of Lindsey in the said county shall be holden at the city of Lincoln, and the court for the election of knights of the shire for the parts of Kesteven and Holland in the said county shall be holden at Sleaford."

Four knights for Lincolnshire; two for the parts of Lindsey, two for Kesteven and Holland.

By sect. 14, "each of the counties enumerated in the schedule marked (F.) to this act annexed shall be divided into two divisions, which divisions shall be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, shall be deemed and taken to be part of this act as fully and effectually as if the same were incorporated herewith; and that in all future parliaments there shall be four knights of the shire instead of two, to serve for each of the said counties, (that is to say,) two knights of the shire for each division of the said counties; and such knights shall be chosen in the same manner, and by the same classes and descriptions of voters, and in respect of the same several rights of voting, as if each of the said divisions were a separate county; and the court for the election of knights of the shire for each division of the said counties shall be holden at the place to be named for that purpose in the act so to be passed as aforesaid for settling and describing the divisions of the said counties."

Certain counties to be divided, and to return two knights for each division.

2 & 3 W. 4, c. 64, *post*, 75.

By sect. 15, "in all future parliaments there shall be three knights of the shire, instead of two, to serve for each of the counties enumerated in the schedule marked (F. 2.) to this act annexed, and two knights of the shire, instead of one, to serve for each of the counties of Carmarthen, Denbigh, and Glamorgan."

Certain counties to return three and others two knights.

By sect. 16, "the Isle of Wight in the county of Southampton shall for the purposes of this act be a county of itself, separate and apart from the county of Southampton, and shall return one knight of the shire to serve in every future parliament; and such knight shall be chosen by the same classes and descriptions of voters, and in respect of the same several rights of voting, as any knight of the shire shall be chosen in any county in England; and all elections for the said county of the Isle of Wight shall be holden at the town of Newport, in the Isle of Wight, and the sheriff of

Isle of Wight, severed from Hampshire, to return a member.

(2.) *Electors*, the Isle of Wight, or his deputy, shall be the returning officer at such elections.”

Towns, counties of themselves, included in adjoining counties.

By sect. 17, “for the purpose of electing a knight or knights of the shire to serve in any future parliament, the East Riding of the county of York, the North Riding of the county of York, the parts of Lindsey in the county of Lincoln, and the several counties at large enumerated in the second column of the schedule marked (G.) to this act annexed, shall respectively include the several cities and towns and counties of the same, which are respectively mentioned in conjunction with such ridings, parts, and counties at large, and named in the first column of the said schedule (G.)”

II. Qualification of Electors to vote in Election of Members for Counties.

Freehold of 40s. a-year.

By the 8 Hen. VI. c. 7, every elector of a knight of the shire shall have land or tenement to the annual value of 40s. at the least, above all charges. And by the 10 Hen. VI. c. 2, the said 40s. a-year shall be freehold.

And by the 18 Geo. II. c. 18, s. 5, no person shall vote for a knight of the shire without having freehold estate in the county of the clear value of 40s. over and above all rents and charges payable out of the same.

Sect. 6. But taxes and assessments shall not be deemed a charge payable out of the lands.

Limitation in respect of freeholds for life, if occupied by himself, 40s. per year: if by another, 10l. per year.

By 2 Wil. IV. c. 45, s. 18, “no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, or in the election of a member or members to serve in any future parliament for any city or town being a county of itself, in respect of any freehold lands or tenements whereof such person may be seised for his own life, or for the life of another, or for any lives whatsoever, except such person shall be in the actual and *bonâ fide* occupation of such lands or tenements, or except the same shall have come to such person by marriage, marriage settlement, devise, or promotion to any benefice or to any office, or except the same shall be of the clear yearly value of not less than ten pounds above all rents and charges payable out of or in respect of the same; any statute or usage to the contrary notwithstanding: provided always, that nothing in this act contained shall prevent any person now seised for his own life, or for the life of another, or for any lives whatsoever, of any freehold lands or tenements in respect of which he now has, or but for the passing of this act might acquire, the right of voting in such respective elections, from retaining or acquiring, so long as he shall be so seised of the same lands or tenements, such right of voting in respect thereof, if duly registered according to the respective provisions herein-after contained.”

But see sect. 24. If the same can confer on occupier, being owner, a vote for a borough, he cannot vote in respect of it for the county.

If occupied by his tenant each may vote, if of the proper value, the tenant for the borough and the owner for the county.

Mortgage or trust estate.

By the 7 & 8 Wil. III. c. 25, s. 7, the mortgagor or *cestuique trust* shall vote; and not the trustee or mortgagee, unless he be in actual possession, or receipt of rents and profits. And by 2 Wil. IV. c. 45, s. 26, *for his own use*.

Tenant in dower.

By the 20 Geo. III. c. 17, s. 12, husbands of women entitled to dower out of the estates of their former husbands may vote in respect thereof, although the said dower hath not been set out by metes and bounds; provided that the dower be worth 40s. a-year, and the husband be in actual receipt of the profits thereof.

Purchasers of land tax.

By 42 Geo. III. c. 116, s. 154, purchasers of land-tax are considered to be actually seised of a fee-farm rent, in amount equal to the redeemed land-tax, as purchased.

By sect. 120, proof of the execution of any deed by the commissioners, parties thereto, shall be sufficient evidence that every thing required was duly done.

By sect. 165, copies of the registers of contracts shall be good evidence of such contracts. (2.) *Electors for Counties.*

And by the 53 Geo. III. c. 123, s. 36, the like evidence applies to registers of certificates; and no certificate, or any copy of the register thereof, to be liable to any stamp.

By the 51 Geo. III. c. 99, s. 1, reciting that, by the 42 Geo. III. c. 116, s. 154, purchasers of land-tax charged upon manors, messuages, lands, tenements, and hereditaments, are, by virtue of that act, adjudged, deemed, and taken to be in the actual seisin and possession of yearly rents, or sums, as fee-farm rents, equal in amount to the land-tax so purchased by them, to be issuing and payable out of the manors, messuages, lands, tenements, and hereditaments, whereon the land-tax so purchased was charged; and that no person is allowed by law to vote for electing any member of parliament, in respect of any annuity, fee-farm rent, or rent-charge, without the same being first duly registered in manner directed by law; and that doubts had arisen whether any person could vote at an election for a member of parliament in respect of any land-tax so purchased as aforesaid, without the same or some memorial of the contract or certificate for such purchase being first registered in the same manner as other fee-farm rents, rent-charges, and annuities or memorials of the grant thereof, required to be registered as aforesaid: it is enacted, that in order to entitle any person to vote at an election for a member of parliament, in respect of land-tax so purchased as aforesaid, it shall not be necessary to have the same or any memorial of the contract or certificate of the purchase thereof registered, as other fee-farm rents and annuities, or a memorial of the grant thereof, are required by law to be registered, before any person can vote for electing a member of parliament in respect thereof.

By the 3 Geo. III. c. 24, s. 1, no persons shall vote for electing a knight of a shire, or member for a city or town, being a county of itself, in respect of any annuity or rent-charge granted *before* June 1, 1763, unless a *certificate* upon oath shall have been entered with the clerk of the peace or town-clerk twelve months before the election, as follows:—

I, A. B., of , am really and bonâ fide seised of an annuity or rent-charge, for my own use and benefit, of the clear yearly value of 40s., above all rents and charges payable out of the same, wholly issuing out of freehold lands, tenements, or hereditaments, belonging to C. D., of , situate, lying, and being, in the parish, township, or place, or in the parishes, townships, or places, of E., in the county of , without any trust, agreement, matter, or thing, to the contrary notwithstanding; and I, or the person or persons under whom I claim, was or were seised of the said annuity or rent-charge before the first day of June, 1763.

Sect. 2. And a like certificate shall be entered (*mutatis mutandis*) where such rent-charge came by descent, marriage, devise, or promotion to a benefice or office.

Sect. 3. And no person shall vote at such election in respect of any annuity or rent-charge granted *after* June 1, 1763, unless a *memorial* of the grant of such annuity or rent-charge shall have been registered with the clerk of the peace or town-clerk, twelve calendar months at least before the first day of such election; which memorial shall be written on parchment, and directed to the clerk of the peace or town-clerk, and shall be under the hand and seal of the grantor, and attested by two witnesses, one whereof to be one of the witnesses to the execution of such grant; which witness shall, upon oath before such clerk, prove the sealing and delivery of the grant, and the signing and sealing of the memorial. Memorial of the grant of an annuity to be registered.

Sect. 3. The said memorial shall contain the day and year of the date and the names, additions, and abodes of the parties and witnesses, and all the lands and tenements out of which the rent-charge issues, and the place where they lie.

Sect. 3. The grant shall, at the time of entering the memorial, be produced to such clerk of the peace or town-clerk, who shall indorse thereon a

(2.) Electors
for Counties.

certificate, in which shall be mentioned the day and year on which such memorial shall be entered.

Sect. 4. And no person shall vote by reason of an *assignment* of such annuity or rent-charge without like certificate, entry, and memorial of such grant and assignment, as in case of an original grant.

Sect. 5. The clerk of the peace or town-clerk to have for the entry of such certificate 1s., and of the memorial 2s.; for search thereof 1s., and for copies at the rate of 6d. for every two hundred words.

Scot and lot voters.

By the 26 Geo. III. c. 100, no person shall be admitted to vote at any election for any city or borough, as an inhabitant paying scot and lot, or an inhabitant, householder, housekeeper, and potwaller, legally settled, or resident, or as an inhabitant thereof, unless he shall have been actually and *bonâ fide* an inhabitant within such city or borough for six calendar months previous to the day of election. [By the 2 Wil. IV. c. 45, s. 33, it must now be six months previous to the last day of July, and they must be duly registered pursuant to the provisions of that act;] and such vote shall be null and void, and he shall forfeit 20*l.* to be recovered in the courts at Westminster within six months; but the same shall not extend to any person who shall acquire the possession of any house in such city or borough by descent, devise, marriage, or marriage settlement, or promotion to any office or benefice. And this shall relate only to persons who claim to vote as inhabitants, in manner as aforesaid, and shall not extend to any other description of persons who may claim to vote by any other title, or by any other superadded qualification.

Bribery.

By the 7 & 8 Wil. III. c. 4, no candidate, after the teste of the writ of summons, or after a place becomes vacant in parliament time, shall, by himself, or by any other ways or means on his behalf, or at his charge before his election, directly or indirectly give, or promise to give, to any elector any money, meat, drink, provision, present, reward, or entertainment, to or for any such elector in particular, or to any county, city, town, borough, port, or place in general, in order to his being elected, on pain of being incapacitated.

By the 2 Geo. II. c. 24, s. 1, (which is required to be read by the returning officer immediately after reading the writ, and also at Easter sessions yearly for any county or city, and at every election of the chief magistrates in any borough, town corporate, or cinque port), every person, before he is admitted to poll, shall, if required by either of the candidates, or any two electors, take the following oath, to be administered by the returning officer or his deputy:—

I, A. B., do swear [or, being one of the people called Quakers, "*I, A. B., do solemnly affirm*"] *I have not received or had by myself, or any person whatsoever in trust for me, or for my use and benefit, directly or indirectly, any sum or sums of money, office, place, or employment, gift, or reward, or any promise or security for any money, office, employment, or gift, in order to give my vote at this election. [And that I have not before been polled at this election (a).]*

If he refuse to take the oath, his vote may be rejected.

Sect. 7. If any person shall take any money, or other reward, or contract or agree for any money, gift, office, employment, or other reward, to give, or forbear to give, his vote, he shall forfeit 500*l.*

Offenders discovering others, indemnified.

Sect. 8. And if any person offending shall, within twelve months after such election, discover any other person or persons offending against this act, so that the party so discovered be thereupon convicted, such discoverer, not having been before convicted of any offence against this act, shall be indemnified and discharged from all penalties and disabilities which he shall have then incurred by any offence against this act.

(a) This constitutes one of the questions put to the elector, and it is apprehended need not now form part of the oath.

Sect. 11 provides, declares, and enacts, that no person shall be made liable to any incapacity, disability, forfeiture, or penalty, by this act laid or imposed, unless prosecution be commenced within two years after such incapacity, disability, forfeiture, or penalty, shall be incurred; or, in case of a prosecution, the same be carried on without wilful delay, any thing herein contained to the contrary notwithstanding.

(2.) *Electors for Counties.*

Prosecutions to be within two years.

Mr. Collyer has the following note on this statute:—"Wherever a person is bound by law to act without any view to his own private emolument, and another, by a corrupt contract, engages such person, on the condition of the payment or promise of money, or other lucrative consideration, to act in a manner which he shall prescribe, both parties are, by such contract, guilty of bribery. (2 *Doug. Law of Elections*, n. (b).) Bribery at elections for members of parliament was always a crime at common law, and consequently punishable by indictment or information; but, in order to enforce the law, the severe penalties contained in this statute were introduced, the legislature not meaning to take away the common law crime, but to add a penal action, as appears by the words, 'or being otherwise lawfully convicted thereof,' contained in the seventh section. However, the court will not, in ordinary cases, interpose by information at common law, until the two years are expired. (*R. v. Pitt*, 3 *Burr.* 1339; and see *R. v. Haydon*, 3 *Burr.* 1359.) The same incapacities ensue, upon a conviction, on a prosecution for bribery by way of information at common law, as when the proceeding is by an action under the statute. (4 *Doug. L. E.* 294.) For cases on the construction of this statute, see 1 *Russ.* 159; and see, on the construction of the eighth section, *Sibley v. Cumming*, 4 *Burr.* 2465; *Curgenven v. Cumming*, 4 *Burr.* 2504; *Pugh v. Curgenven*, 3 *Wils.* 35. It has been decided, that where a voter received money after an election, for having voted for a particular candidate, but no agreement for any such payment was proved to have been made before the election, the case was not within the statute. (*Lord Huntingtower v. Gardiner*, 1 *B. & C.* 297; 2 *D. & R.* 369, *S. C.*; see also *Shep.* 58.)"

Observations as to bribery.

To constitute the offence of bribery, it is immaterial whether the party vote according to the bribe or not, (*Sulston v. Norton*, 3 *Burr.* 1235,) or whether he had even a right to vote at all, if he claimed such right, and the corrupter believed him to possess it. (*Lilley v. Corne*, 1 *Schw. N. P.* 650, n.)

At a general election, A. was returned, after a contest, to serve in parliament, but died before the next meeting of parliament; held, that immediately on his death the representation of that place "became vacant," within the meaning of the Treating Act, 7 & 8 *Wil. III. c. 4*; and that if B., being neither a candidate nor the agent of a candidate, canvassed for C., and ordered beer for the voters after such vacancy, this comes within the act, even though it were not proved that C. either knew of the canvass or of the treating; and it was therefore held, that an innkeeper could not recover against B. for beer supplied to those voters by his order. The Treating Act extends to an unsuccessful candidate who did not come to the poll. (*Ward v. Nanney*, 3 *C. & P.* 399.)

A mercer furnished ribands to a person who was a candidate for the representation of a city in parliament; the ribands were partly used as ribands for voters; the mercer was himself a voter, and received orders for some of the ribands from the candidate himself, in his committee-room, but was not told for what purpose they were wanted. Held, that he was entitled to recover the price of the riband from the candidate, notwithstanding the provisions of the 7 & 8 *Wil. III. c. 4*. (*Richardson v. Webster, Bart.*, 3 *C. & P.* 128.)

In an action on this statute for bribery, it is no objection to the competency of a witness for the plaintiff to prove such bribery, that a similar action was pending against the witness himself for bribery at the same election, and that he claimed to be the first discoverer of the bribery of the defendant, and meant to avail himself of it, if necessary, in case of the defendant's conviction. Where the evidence given by such a witness of the defendant's bribery was by means of the defendant's confession of it to the witness, it was holden that the truth of the fact so confessed, as well as the confession of

Discoverer, though interested, a competent witness.

(2.) *Electors for Counties.*

Giving ribands, &c.

Treating Voters.

Copyholders entitled to vote ;

also leaseholders and occupiers of a certain annual value.

such fact, was material for the consideration of the jury. (*Heward v. Shipley*, 4 East, 180.) See further, *post*, 43, 55, as to expenses.

By the 7 & 8 Geo. IV. c. 37, s. 2, 3, passed to prevent the expenses of elections, the practice of giving ribands, or other marks of distinction, by a candidate before his election, either to voters or inhabitants, in England, is made penal in the sum of 10*l.* for every offence.

See further, as to expenses, the 49 Geo. IV. c. 118, *post*, 55.

If refreshments be supplied to voters with a view to influence the election, and the credit be given to the candidate or his agent by the party supplying them, it is clearly bribery under this statute. But if they be supplied upon the credit of the candidate's supporters, not members of his committee, and without his knowledge or acquiescence, it is not within the act. (*Hughes v. Marshall and Others*, 2 Crom. & J. 118, 5 C. & P. 150, S. C.)

In the case above cited, Patteson, J., observes, "As many of the voters come from a distance, they must have accommodation and refreshment; and for that they must either themselves be liable, or any one else may be liable who gives the order, *provided he be neither a candidate nor an agent.*" It would, however, be dangerous to rely upon this *dictum* too strictly, for a trifling outstretch of liberality might subject the party offending to severe penalties.

As to attempts to bribe, see "**Bribery**," Vol. I.

By 2 Wil. IV. c. 45, sect. 19, "every male person of full age, and not subject to any legal incapacity, who shall be seised at law or in equity of any lands or tenements of copyhold or any other tenure whatever *except freehold*, for his own life, or for the life of another, or for any lives whatsoever, or for any larger estate, of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same, shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament for the county, or for the riding, parts, or division of the county, in which such lands or tenements shall be respectively situate."

See *post*, sect. 22, what are not charges.

By sect. 20, "every male person of full age, and not subject to any legal incapacity, who shall be entitled, *either as lessee or assignee*, to any lands or tenements, whether of freehold or of any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives, or not), of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same, or for the unexpired residue, whatever it may be, of any term originally created for a period of not less than twenty years (whether determinable on a life or lives, or not), of the clear yearly value of not less than fifty pounds over and above all rents and charges payable out of or in respect of the same, or *who shall occupy as tenant* any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not less than fifty pounds, shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament for the county, or for the riding, parts, or division of the county, in which such lands or tenements shall be respectively situate: provided always, that no person, being only a sub-lessee, or the assignee of any underlease, shall have a right to vote in such election in respect of any such term of sixty years or twenty years as aforesaid, unless he shall be in the actual occupation of the premises."

Joint occupiers of leaseholds to an amount equalling a rental of fifty pounds each, are severally entitled to a vote in respect of the occupancy; but if any such occupier underlet a portion, reducing his annual rent below fifty pounds, he is disentitled to vote. It must be a *bonâ fide* occupation by himself.

As to the meaning of the term occupier, see *post*, 23.

Though this clause does not vest in the equitable owner of leaseholds a right to vote in respect of them, as is the case with copyholds in the preceding section, yet it has been almost invariably held, that an equitable interest in a lease constitutes a sufficient right of voting. (*Wordsworth on Elec.* p. 79.)

By sect. 21, "no public or parliamentary tax, nor any church rate, county rate, or parochial rate, shall be deemed to be any charge payable out of or in respect of any lands or tenements within the meaning of this act."

(2.) *Electors for Counties.*

By sect. 22, "in order to entitle any person to vote in any election of a knight of the shire or other member to serve in any future parliament, in respect of any messuages, lands, or tenements, whether freehold or otherwise, it shall not be necessary that the same shall be assessed to the land tax; any statute to the contrary notwithstanding."

Taxes and rates not deemed charges.

Need not be assessed to land tax.

By sect. 23, "no person shall be allowed to have any vote in the election of a knight or knights of the shire for or by reason of any trust estate or mortgage, unless such trustee or mortgagee be in actual possession or receipt of the rents and profits of the same estate, but that the mortgagor or cestuique trust in possession shall and may vote for the same estate notwithstanding such mortgage or trust."

Trustees and mortgagees may vote if in actual possession.

By sect. 24, "no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament in respect of his estate or interest as a freeholder in any house, warehouse, counting-house, shop, or other building occupied by himself, or in any land occupied by himself together with any house, warehouse, counting-house, shop, or other building, such house, warehouse, counting-house, shop, or other building being, either separately or jointly with the land so occupied therewith, of such value as would, according to the provisions hereinafter contained, confer on him the right of voting for any city or borough, whether he shall or shall not have actually acquired the right to vote for such city or borough in respect thereof."

No person to vote for a county in respect of any freehold house, &c. occupied by himself, which can confer a vote for a borough.

By sect. 25, "no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament in respect of his estate or interest as a copyholder or customary tenant, or tenant in ancient demesne, holding by copy of court roll, or as such lessee or assignee, or as such tenant and occupier as aforesaid, in any house, warehouse, counting-house, shop, or other building, or in any land occupied together with a house, warehouse, counting-house, shop, or other building, such house, warehouse, counting-house, shop, or other building being, either separately or jointly with the land so occupied therewith, of such value as would, according to the provisions hereinafter contained, confer on him or on any other person the right of voting for any city or borough, whether he or any other person shall or shall not have actually acquired the right to vote for such city or borough in respect thereof."

Nor in respect of copyholds and leaseholds entitling any person to a vote for a borough.

It will be observed that there is a peculiar and wide distinction between this and the preceding section. To incapacitate an owner of *freeholds* within a borough to vote in respect of them for the county, he must be in *personal* possession, and qualified, in respect of them, to a borough vote. Nor is it essential to the disqualification that he shall have neglected or refused to claim his right to the borough registration.

But as respects *copyhold* or customary estates, the prohibition is absolute, and the owner is disqualified to vote for the county, *whether they be occupied by himself or another*, if conferring on the tenant a right to vote for a borough.

Though the rental of the premises be under the required amount, it yet affords no conclusive objection to the right of voting, if it be shown by other evidence that the yearly value be greater than the rent paid.

By sect. 28, "the premises in respect of the occupation of which any person shall be entitled to be registered in any year, and to vote in the election for any city or borough as aforesaid, shall not be required to be the same premises, but may be *different premises occupied in immediate succession* by such person during the twelve calendar months next previous to the last day of July in such year, such person having paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall previously to the sixth day of April then next preceding have become payable from him in respect of all such premises so occupied by him in succession."

Provision as to premises occupied in succession.

By sect. 29, "where any premises as aforesaid, in any such city or borough, or in any place sharing in the election therewith, shall be jointly occupied

Joint occupiers entitled to vote.

(2.) Electors
for Counties.

Occupiers may
demand to be
rated.

by more persons than one as owners or tenants, each of such joint occupiers shall, subject to the conditions herein-before contained as to persons occupying premises in any such city, borough, or place, be entitled to vote in the election for such city or borough, in respect of the premises so jointly occupied, in case the clear yearly value of such premises shall be of an amount which, when divided by the number of such occupiers, shall give a sum of not less than ten pounds for each and every such occupier, but not otherwise."

By sect. 30, "in every city or borough which shall return a member or members to serve in any future parliament, and in every place sharing in the election for such city or borough, it shall be lawful for any person occupying any house, warehouse, counting-house, shop, or other building, either separately, or jointly with any land occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, in any parish or township in which there shall be a rate for the relief of the poor, to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being; and in case such overseers shall neglect or refuse so to do, such occupier shall nevertheless for the purposes of this act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: provided always, that where by virtue of any act of parliament the landlord shall be liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord; but in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate due in respect thereof, such landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant."

III. Qualification of Electors to vote in the Election of Members for Boroughs.

Occupiers of
houses, &c. of
the annual value
of 10*l*.

Must be rated
to the poor rate;

and have paid
rate and assessed
taxes.

By the 2 Wil. IV. c. 45, s. 27, "in every city or borough which shall return a member or members to serve in any future parliament, every male person of full age, and not subject to any legal incapacity, who shall occupy, within such city or borough, or within any place sharing in the election for such city or borough, as owner or tenant, any house, warehouse, counting-house, shop, or other building, being, either separately, or jointly with any land within such city, borough, or place occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, of the clear yearly *value* of not less than ten pounds, shall, if duly registered according to the provisions hereinafter contained, be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough: provided always, that no such person shall be so registered in any year unless he shall have occupied such premises as aforesaid for twelve calendar months next previous to the last day of July in such year, nor unless such person, where such premises are situate in any parish or township in which there shall be a rate for the relief of the poor, shall have been rated in respect of such premises to all rates for the relief of the poor in such parish or township made during the time of such his occupation so required as aforesaid, nor unless such person shall have paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises

previously to the sixth day of April then next preceding: provided also, (3.) *Electors' Qualification for Boroughs.*
that no such person shall be so registered in any year unless he shall have resided for six calendar months next previous to the last day of July in such year within the city or borough, or within the place sharing in the election for the city or borough, in respect of which city, borough, or place respectively he shall be entitled to vote, or within seven statute miles thereof, or of any part thereof." *Residence also required.*

Though the cellar or other apartment of a house have been let off, yet the occupier of the house is deemed the occupier of the whole, unless it be shown that all communication is cut off between it and the part so let off.

The true meaning of the term "occupier" is clearly defined by Mr. Justice Littledale, in *Rex v. Ditchet*, 9 B. & Cres. 185, "that it is not necessary, in order to make a man an occupier, that he should actually sleep or take his meals in a house, or that his family should actually dwell in the whole house; but the law considers him for this purpose an occupier, if he hold the whole, and by himself or family occupy a part. The words 'occupation of a house' imply personal residence; but if a lessee of a house dwell in any part of it, though he let the other part, he, in point of law, is to be considered as occupier of the whole."

The occupier must be rated in his own name, and have paid up all the rates to which he was liable during such occupation.

Burgage Tenure.]—By sect. 35, "no person shall be entitled to vote in the election of a member or members to serve in any future parliament for any city or borough (other than a city or town being a county of itself, in the election for which freeholders or burgage tenants have a right to vote as herein-before mentioned), in respect of any estate or interest in any burgage tenement or freehold which shall have been acquired by such person since the first day of March one thousand eight hundred and thirty-one, unless the same shall have come to or been acquired by such person, since that day, and previously to the passing of this act, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to any office." *Exclusion of certain rights of voting acquired since the 1st of March, 1831.*

By sect. 31, "in every city or town being a county of itself, in the election for which freeholders or burgage tenants, either with or without any super-added qualification, now have a right to vote, every such freeholder or burgage tenant shall be entitled to vote in the election of a member or members to serve in all future parliaments for such city or town, provided he shall be duly registered according to the provisions herein-after contained; but no such person shall be so registered in any year in respect of any freehold or burgage tenement, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof, for his own use, for twelve calendar months next previous to the last day of July in such year, (except where the same shall have come to him, at any time within such twelve months, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or to any office,) nor unless he shall have resided for six calendar months next previous to the last day of July in such year within such city or town, or within seven statute miles thereof, or of any part thereof: provided always, that nothing in this enactment contained shall be deemed to vary or abridge the provisions herein-before made relative to the right of voting for any city or town being a county of itself, in respect of any freehold for life or lives: provided also, that every freehold or burgage tenement which may be situate without the present limits of any such city or town being a county of itself, but within the limits of such city or town as the same shall be settled and described by the act to be passed for that purpose as herein-before mentioned, shall confer the right of voting in the election of a member or members to serve in any future parliament for such city or town in the same manner as if such freehold or burgage tenement were situate within the present limits thereof." *Freeholders voting for cities and towns being counties of themselves.*
To extend to freeholds within the new boundaries.
2 & 3 W. 4, c. 64, post, 75.

(4.) *Electors,
Reservation of
Burgesses'
Rights.*

IV. Burgesses, Freemen, and Liverymen.

Reservation of Rights to those formerly entitled to vote, under certain Restrictions.]—By the 2 Wil. IV. c. 45, s. 32, “every person who would have been entitled to vote in the election of a member or members to serve in any future parliament for any city or borough not included in the schedule marked (A.) to this act annexed, either as a burgess or freeman, or in the city of London as a freeman and liveryman, if this act had not been passed, shall be entitled to vote in such election, provided such person shall be duly registered according to the provisions herein-after contained; but that no such person shall be so registered in any year, unless he shall, on the last day of July in such year, be qualified in such manner as would entitle him then to vote if such day were the day of election, and this act had not been passed, nor unless, where he shall be a burgess or freeman, or freeman and liveryman of any city or borough, he shall have resided for six calendar months next previous to the last day of July in such year within such city or borough, or within seven statute miles from the place where the poll for such city or borough shall heretofore have been taken, nor unless, where he shall be a burgess or freeman of any place sharing in the election for any city or borough, he shall have resided for six calendar months next previous to the last day of July in such year within such respective place so sharing as aforesaid, or within seven statute miles of the place mentioned in conjunction with such respective place so sharing as aforesaid and named in the second column of the schedule marked (E. 2.) to this act annexed: provided always, that no person who shall have been elected, made, or admitted a burgess or freeman since the first day of March one thousand eight hundred and thirty-one, otherwise than in respect of birth or servitude, or who shall hereafter be elected, made, or admitted a burgess or freeman, otherwise than in respect of birth or servitude, shall be entitled to vote as such in any such election for any city or borough as aforesaid, or to be so registered as aforesaid: provided also, that no person shall be so entitled as a burgess or freeman in respect of birth unless his right be originally derived from or through some person who was a burgess or freeman, or entitled to be admitted a burgess or freeman, previously to the first day of March in the year one thousand eight hundred and thirty-one, or from or through some person who since that time shall have become or shall hereafter become a burgess or freeman in respect of servitude: provided also, that every person who would have been entitled, if this act had not been passed, to vote as a burgess or freeman of Swansea, Loughor, Neath, Aberavon, or Kenfig, in the election of a member to serve in any future parliament for the borough of Cardiff, shall cease to vote in such election, and shall instead thereof be entitled to vote as such burgess or freeman in the election of a member to serve in all future parliaments for the borough composed of the towns of Swansea, Loughor, Neath, Aberavon, and Kenfig, subject always to the provisions herein-before contained with regard to a burgess or freeman of any place sharing in the election for any city or borough.”

Not to vote in boroughs, unless resident, &c.

Exclusive of freemen created since the 1st of March, 1831.

Exception.

Freemen of Swansea, Loughor, Neath, Aberavon, and Kenfig.

Reservation of other rights of voting in boroughs.

By sect. 33, “no person shall be entitled to vote in the election of a member or members to serve in any future parliament for any city or borough, save and except in respect of some right conferred by this act, or as a burgess or freeman, or as a freeman and liveryman, or, in the case of a city or town being a county of itself, as a freeholder or burgage tenant, as herein-before mentioned: provided always, that every person now having a right to vote in the election for any city or borough (except those enumerated in the said schedule (A.)) in virtue of any other qualification than as a burgess or freeman, or as a freeman and liveryman, or, in the case of a city or town being a county of itself, as a freeholder or burgage tenant, as herein-before mentioned, shall retain such right of voting so long as he shall be qualified as an elector according to the usages and customs of such city or borough or any law now in force, and such person shall be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough,

if duly registered according to the provisions herein-after contained ; but no such person shall be so registered in any year *unless he shall, on the last day of July in such year, be qualified as such elector in such manner as would entitle him then to vote if such day were the day of election and this act had not been passed*, nor unless such person, where his qualification shall be in any city or borough, shall have resided for six calendar months next previous to the last day of July in such year within such city or borough, or within seven statute miles from the place where the poll for such city or borough shall heretofore have been taken, nor unless such person, where his qualification shall be within any place sharing in the election for any city or borough, shall have resided for six calendar months next previous to the last day of July in such year within such respective place so sharing as aforesaid, or within seven statute miles of the place mentioned in conjunction with such respective place so sharing as aforesaid, and named in the second column of the schedule marked (E. 2.) to this act annexed : provided nevertheless, that every such person shall for ever cease to enjoy such right of voting for any such city or borough as aforesaid if his name shall have been omitted for two successive years from the register of such voters for such city or borough herein-after directed to be made, unless he shall have been so omitted in consequence of his having received parochial relief within twelve calendar months next previous to the last day of July in any year, or in consequence of his absence on the naval or military service of his majesty."

(4.) *Electors, Reservation of Burgesses' Rights.*

Residence, &c. required.

Two years' omission from the register to disqualify absolutely.

The peculiar wording of this section, that the freeman must be qualified according to his former existing right, renders it essential that he must ground his claim with reference to the ancient boundaries and limits of the borough, and not with those as constituted by the act 3 & 4 Wil. IV. c. 64.

By sect. 34, "every person now having a right to vote for the borough of New Shoreham, or of Cricklade, Aylesbury, or East Retford respectively, in respect of any freehold, wheresoever the same may be situate, shall retain such right of voting, subject always to the same provisions as are herein-before mentioned with regard to persons whose right of voting for any borough is saved and reserved by this act, save and except that such persons now having a right to vote for the borough of New Shoreham, or of Cricklade, Aylesbury, or East Retford respectively, shall not be registered in any year unless they shall have resided for six calendar months next previous to the last day of July in such year within the borough of New Shoreham, or of Cricklade, Aylesbury, or East Retford respectively, as defined by this act, or within seven statute miles of such respective borough, or of any part thereof; and for the purpose of the registration herein-after required, all persons not having a right to vote for the borough of New Shoreham, in respect of any freeholds which may be situate in the borough of Horsham, or for the borough of Cricklade in respect of any freeholds which may be situate in the borough of Malmsbury, as such boroughs of Horsham or Malmsbury may respectively be defined by the act to be passed for that purpose as herein-before mentioned, shall be inserted in the list of voters herein-after directed to be made by the overseers of that parish or township within the borough of New Shoreham or the borough of Cricklade respectively, as defined by this act, which shall be next adjoining to the parish or township in which such freeholds shall respectively be situate; and if the parish or township in which any such freeholds shall be situate shall adjoin two or more parishes or townships within either of the said boroughs of New Shoreham or Cricklade, the persons so having a right to vote in respect of such freeholds shall be inserted in the list of voters to be made by the overseers of the least populous of such adjoining parishes or townships, according to the last census for the time being."

Provision as to persons now entitled to vote for New Shoreham, Cricklade, Aylesbury, or East Retford in respect of freeholds.

V. General Disqualification of Electors.

By the 7 & 8 Wil. 3, c. 25, s. 8, no person shall be admitted to vote under the age of twenty-one years.

Infants.

(5.) *Electors,*
general Dis-
qualification of.

Women.
Aliens.
Idiots, &c.
Perjury.
Peers.
Papists.

Women cannot vote. (4 *Inst.* 5.)
Nor can aliens, (12 *Journal*, 367); unless made denizens by letters patent, or naturalized by statute. (*Shepherd*, 1.)
Nor can idiots or lunatics (except during lucid intervals).
Nor persons convicted of perjury or bribery.
Nor peers of the realm, except Irish peers representing a county or borough of Great Britain.

And papists were once disabled if they *refused* the oaths of allegiance, supremacy, or abjuration; but these disabilities have been removed in Ireland by 33 Geo. III. c. 21, 10 Geo. IV. c. 7, s. 5, and in Great Britain by 10 Geo. IV. c. 7, s. 5; and a particular oath was set forth.

Persons employed
in the revenue.

By the 22 Geo. III. c. 41, no person employed in managing the duties of excise, customs, stamp-duties, salt, houses and windows, or revenue of the Post Office, shall be capable of voting for a member to serve in parliament; and if he shall presume to vote during the time that he shall hold such office, or within twelve calendar months after he shall have ceased to hold the same, his vote shall be void, and he shall forfeit 100*l.* (See 1 *Fras.* 164; 1 *Peck.* 397; 2 *Lud.* 561, 558; *Shep.* 3.)

Not to extend to
coal-meters or
corn-meters of the
city of London.

By the 51 Geo. III. c. 84, nothing in the 22 Geo. III. c. 41, shall extend to the coal-meters or corn-meters of the city of London, to render such coal-meters or corn-meters incapable of giving their votes for members to serve in parliament as other persons having a right of voting may do, provided such coal-meters and corn-meters shall not receive or be entitled to receive any salary, fee, or reward, payable out of the revenue of customs, or other public revenues of the crown.

Police magis-
trates, &c.

Police magistrates, receivers of fees at the police offices, Thames police surveyors and constables, whilst they remain in office, and for six months afterwards, are incapable of voting for Middlesex, Surrey, London, Westminster, Tower Hamlets, Finsbury, Marylebone, Southwark, or Lambeth, under a penalty of 100*l.* (10 Geo. IV. c. 44, s. 18; 3 Wil. IV. c. 19, s. 19); nor can they in any way interfere in persuading electors to vote, &c.; see *post*, "Police."

Persons employed
at elections.

Persons employed at elections, or within six months before, or a fortnight after, as counsel, agent, attorney, poll-clerk, flagman, or in any other capacity for the purposes of the election, are, if they receive at any time any money, &c., or place, in consideration of such employment, disqualified. (7 & 8 Geo. IV. c. 36.)

Receiving alms
or parochial re-
lief.

The receipt of alms, or parish relief, as such, at any time within a limited time before the election, generally a year, (2 *Dougl.* 126,) though in particular cases this period is extended either by act of parliament, as in London (11 Geo. I. c. 18, s. 14), or by a determination of the House of Commons, (2 *Dougl.* 105,) or special usage, will disqualify the voter, (*Shepherd*, 4, and the authorities there collected). Almsmen, or those living in alms-houses, (1 *Dougl.* 277). Where the right of voting accrues after the receipt of relief, as by marrying the daughter of a freeman, the previous relief within the year will not affect it. (1 *Peck.* 72.)

By the 18 Geo. III. c. 59, s. 25, "any relief given to the family of any militia-man during the time of actual service, shall not deprive such militia-man from voting for the election of any member to serve in parliament."

By the 2 Wil. 4, c. 45, s. 36, "no person is entitled to be registered in any year as a voter in the election of a member or members to serve in any future parliament for any city or borough, who shall within twelve calendar months next previous to the last day of July in such year have received parochial relief or other alms which by the law of parliament now disqualify from voting in the election of members to serve in parliament."

Sect. 5. No person shall vote for any estate which was granted to him fraudulently, on purpose to qualify him to give his vote.

Fraudulent con-
veyance.

By the 10 Anne, c. 23, s. 1, all such conveyances, fraudulently made to qualify any person to vote, subject to conditions to defeat the same, shall be deemed and taken as absolute against the person executing the same, and

discharged of all trusts, conditions, and other defeasances ; and all bonds, covenants, or other securities, for the defeating or re-conveying the same, shall be void. (6.) *Electors, Registration of, for Counties.*

By the 7 & 8 Wil. III. c. 25, s. 7, all conveyances to multiply voices, or to split and divide the interest in lands and houses among several persons, to enable them to vote, shall be void ; and no more than one voice shall be admitted for one and the same house or tenement. (See 2 *Peckw.* 29, 53.)

Splitting votes.

By the 53 Geo. III. c. 49, this is now extended to devises for a like purpose.

By the 18 Geo. II. c. 18, s. 5, no person shall vote in any election more than once.

None to vote more than once.

VI. Registration of Electors for Counties, and Duties of Overseers therein.

By 2 Wil. IV. c. 45, s. 37, after reciting that it is "expedient to form a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, and that for the purpose of forming such register the overseers of every parish and township should annually make out lists in the manner herein-after mentioned ; it is enacted, that the overseers of the poor of every parish and township shall on the twentieth day of June in the present and in every succeeding year cause to be fixed on or near the doors of all the churches and chapels within such parish or township, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively, a notice according to the form numbered 1. in the Schedule (H.) to this act annexed, requiring all persons who may be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, in respect to any property situate wholly or in part in such parish or township, to deliver or transmit to the said overseers on or before the twentieth day of July in the present and in every succeeding year a notice of their claim as such voters according to the form numbered 2. in the said schedule (H.), or to the like effect : provided always, that after the formation of the register to be made in each year, as herein-after mentioned, no person whose name shall be upon such register for the time being shall be required thereafter to make any such claim as aforesaid, so long as he shall retain the same qualification, and continue in the same place of abode described in such register."

Overseers to give notice annually, requiring county voters to send in their claims.

Persons once on the register not required to make any subsequent claim.

By sect. 38, "the overseer of the poor of every parish and township shall on or before the last day of July in that year make out or cause to be made out, according to the form numbered 3. in the said schedule (H.), an alphabetical list of all persons who shall claim as aforesaid to be inserted in such list as voters in the election of a knight or knights of the shire to serve for the county, or for the riding, parts, or division of the county wherein such parish or township lies, in respect of any lands or tenements situate wholly or in part within such parish or township ; and the said overseers shall on or before the last day of July in every succeeding year make out or cause to be made out a like list, containing the names of all persons who shall be upon the register for the time being as such voters, and also the names of all persons who shall claim as aforesaid to be inserted in such last-mentioned list as such voters ; and in every list so to be made by the overseers as aforesaid the christian name and surname of every person shall be written at full length, together with the place of his abode, the nature of his qualification, and the local or other description of such lands or tenements, as the same are respectively set forth in his claim to vote, and the name of the occupying tenant, if stated in such claim ; and the said overseers, if they shall have reasonable cause to believe that any person so claiming as aforesaid, or whose name shall appear in the register for the time being, is not entitled to vote in the election of a knight or knights of the shire for the county, or for the riding, parts, or division of the county in which their parish or township is situate, shall have power to add the words 'objected to' opposite the name of every such person on the margin of such list ; and the

Overseers to prepare lists of county voters, and publish them annually.

Overseers may object to any name inserted in the lists.

(6.) *Electors,
Registration of,
for Counties.*Copies of lists
to be kept for
inspection.Places having no
overseers.Notice of objec-
tion by third
parties.Lists of persons
objected to by
third parties to
be published, &c.Lists of county
voters to be for-
warded to the
clerks of the
peace.

said overseers shall sign such list, and shall cause a sufficient number of copies of such list to be written or printed, and to be fixed on or near the doors of all the churches and chapels within their parish or township, or if there be no church or chapel therein, then to be fixed up in some public and conspicuous situation within the same respectively, on the two Sundays next after such list shall have been made; and the said overseers shall likewise keep a true copy of such list, to be perused by any person, without payment of any fee, at all reasonable hours during the two first weeks after such list shall have been made: provided always, that every precinct or place, whether extra-parochial or otherwise, which shall have no overseers of the poor, shall for the purpose of making out such list as aforesaid be deemed to be within the parish or township adjoining thereto, such parish or township being situate within the same county, or the same riding, parts, or division of a county, as such precinct or place; and if such precinct or place shall adjoin two or more parishes or townships so situate as aforesaid, it shall be deemed to be within the least populous of such parishes or townships according to the last census for the time being; and the overseers of the poor of every such parish or township shall insert in the list for their respective parish or township the names of all persons who shall claim as aforesaid to be inserted therein as voters in the election of a knight or knights of the shire to serve for the county, or for the riding, parts, or division of the county in which such precinct or place as aforesaid lies, in respect of any lands or tenements situate wholly or in part within such precinct or place."

By sect. 39, "every person who shall be upon the register for the time being of voters for any county, or for any riding, parts, or division of a county, or who shall have claimed to be inserted in any list for the then current year of voters for any county, or any riding, parts, or division of a county, may object to any person as not having been entitled on the last day of July then next preceding to have his name inserted in any list of voters for such county, riding, parts, or division so to be made out as aforesaid; and every person so objecting (save and except overseers objecting in the manner herein-before mentioned) shall, on or before the twenty-fifth day of August in the present and in every succeeding year, *give or cause to be given a notice in writing* according to the form numbered 4. in the said schedule (H.), or to the like effect, to the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted; and the person so objecting shall also, on or before the twenty-fifth day of August in the present and in every succeeding year, give to the person objected to, or leave at his place of abode as described in such list, or personally deliver to his tenant in occupation of the premises described in such list, *a notice in writing according to the form numbered 5. in the said schedule (H.), or to the like effect*; and the overseers shall include the names of all persons so objected to in a list according to the form numbered 6. in the said schedule (H.), and shall cause copies of such list to be fixed on or near the doors of all the churches and chapels within their parish or township, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively, on the two Sundays next preceding the fifteenth day of September, in the present and in every succeeding year; and the overseers shall likewise keep a copy of the names of all the persons so objected to, to be perused by any person, without payment of any fee, at all reasonable hours during the ten days next preceding the said fifteenth day of September in the present and in every succeeding year."

This section requires that the voter objected to shall have notice in writing from the party objecting. Such notice is not requisite under the preceding clause where the objection is made by the overseer.

By sect. 40, "on the twenty-ninth day of August in every year the overseers of every parish and township shall deliver the list of voters so made out as aforesaid, together with a written statement of the number of persons objected to by the overseers and by other persons, to the high constable or high constables of the hundred or other like district in which such parish or township is situate; and such high constable or high constables shall forthwith deliver all such lists, together with such statements as aforesaid, to the clerk

of the peace of the county, riding, or parts, who shall forthwith make out an abstract of the number of persons objected to by the overseers and by other persons in each parish and township, and transmit the same to the barrister or barristers appointed as hereinafter mentioned to revise such lists, in order that the said barrister or barristers may fix proper times and places for holding his or their courts for the revision of the said lists.”

VII. Registration of Electors for Boroughs, and Duties of Overseers therein.

By 2 Wil. IV. c. 45, s. 44, “the overseers of the poor of every parish and township either wholly or in part situate within any city or borough, or place sharing in the election for any city or borough, which shall return a member or members to serve in any future parliament, shall, on or before the last day of July in each year, make out or cause to be made out, according to the form numbered 1. in the schedule marked (I.) to this act annexed, an alphabetical list of all persons who may be entitled by virtue of this act to vote in the election of a member or members to serve in any future parliament for such city or borough in respect of the occupation of premises of the clear yearly value of not less than ten pounds as hereinbefore mentioned, situate wholly or in part within such parish or township, and another alphabetical list, according to the form numbered 2. in the said schedule (I.), of all other persons (except freemen) who may be entitled to vote in the election for such city or borough by virtue of any other right whatsoever; and in each of the said lists the christian name and surname of every person shall be written at full length, together with the nature of his qualification; and where any person shall be entitled to vote in respect of any property, then the name of the street, lane, or other description of the place where such property may be situate shall be specified in the list; and where any person shall be entitled to vote otherwise than in respect of any property, then the name of the street, lane, or other description of the place of such person's abode shall be specified in the list; and the overseers shall sign each of such lists, and shall cause a sufficient number of copies of such lists to be printed, and to be fixed on or near the doors of all the churches and chapels in their several parishes and townships, or if there be no church or chapel therein, then to be fixed up in some public and conspicuous situation within the same respectively, on the two Sundays next after such lists shall have been made; and the said overseers shall likewise keep true copies of such lists, to be perused by any person, without payment of any fee, at all reasonable hours during the two first weeks after such lists shall have been made.”

Overseers to prepare and publish lists of persons (other than freemen) entitled to vote in boroughs.

Copies of lists to be kept for inspection.

Places within boroughs having no overseers.

By sect. 45, “every precinct or place, whether extra-parochial or otherwise, having no overseers of the poor, which now is or hereafter may be within any city or borough, or within any place sharing in the election for any city or borough, shall, for the purpose of making out the list of voters for such city or borough, be deemed to be within the parish or township adjoining thereto, and situate wholly or in part within such city or borough, or within such place sharing in the election therewith; and if such precinct or place shall adjoin two or more parishes or townships so situate as aforesaid, it shall be deemed to be within the least populous of such parishes or townships according to the last census for the time being; and the overseers of every such parish or township shall insert in the list for their respective parish or township the names of all persons who may be entitled to vote in the election of a member or members to serve in any future parliament for any such city or borough in respect of any property occupied by such persons within such city or borough, or within any place sharing in the election therewith, such property being situate wholly or in part within such precinct or place as aforesaid.”

By sect. 46, “the town clerk of every city or borough shall, on or before the last day of July in each year, make out or cause to be made out, according to the form numbered 3. in the said schedule (I.), an alphabetical list of all the freemen of such city or borough who may be entitled to vote

Town clerks to publish the lists of freemen.

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in the election of a member or members to serve in any future parliament for such city or borough, together with the respective places of their abode; and the town clerk of every place sharing in the election for any city or borough shall, at the respective times aforesaid, make out or cause to be made out a like list of all the freemen of such place who may be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough; and every such town clerk shall cause a copy of every such list to be fixed on or near the door of the town hall, or in some public and conspicuous situation within such respective city, borough, or place as aforesaid, on the two Sundays next after such list shall have been made, and shall likewise keep a true copy of such list, to be perused by any person, without payment of any fee, at all reasonable hours during the two first weeks after such list shall have been made: provided always, that where there shall be no town clerk for such city, borough, or place as aforesaid, or where the town clerk shall be dead or incapable of acting, all matters by this act required to be done by and with regard to the town clerk shall be done by and with regard to the person executing duties similar to those of the town clerk, and if there be no such person, then by and with regard to the chief civil officer of such city, borough, or place."

Persons omitted
in borough lists
to give notice of
claims.

By sect. 47, "every person whose name shall have been omitted in any such list of voters for any city or borough so to be made out as herein-before mentioned, and who shall claim to have his name inserted therein as having been entitled on the last day of July then next preceding, shall, on or before the twenty-fifth day of August in the present and in every succeeding year, give or cause to be given a notice in writing, according to the form numbered 4. in the said schedule (I.), or to the like effect, to the overseers of that parish or township in the list whereof he shall claim to have his name inserted, or if he shall claim as a freeman of any city or borough, or place sharing in the election therewith, then to the town-clerk of such city, borough, or place; and every person whose name shall have been inserted in any list of voters for any city or borough may object to any other person as not having been entitled on the last day of July then next preceding to have his name inserted in any list of voters for the same city or borough, and every person so objecting shall, on or before the twenty-fifth day of August in the present and in every succeeding year, give or cause to be given a notice in writing according to the form numbered 5. in the said schedule (I.), or to the like effect, to the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted, or if the person objected to shall have been inserted in the list of freemen of any city, borough, or place as aforesaid, then to the town-clerk of such city, borough, or place; and the overseers shall include the names of all persons so claiming as aforesaid in a list according to the form numbered 6. in the said schedule (I.), and the names of all persons so objected to as aforesaid in a list according to the form numbered 7. in the said schedule (I.), and shall cause copies of such two lists to be fixed on or near the doors of all the churches and chapels within their parish or township, or if there be no church or chapel therein then to be fixed in some public and conspicuous situation within the same respectively, on the two Sundays next preceding the fifteenth day of September in the present and in every succeeding year; and every town-clerk shall include the names of all persons so claiming as freemen in a list according to the form numbered 8. in the said schedule (I.), and the names of all persons so objected to as freemen in a list according to the form numbered 9. in the said schedule (I.), and shall cause copies of such two lists to be fixed on or near the door of the town-hall, or in some public and conspicuous situation, within his respective city, borough, or place as aforesaid, on the two Sundays herein-before last mentioned in the present and in every succeeding year; and the overseers and town-clerks shall likewise keep a copy of the names of all the persons so claiming as aforesaid, and also a copy of the names of all persons so objected to as aforesaid, to be perused by any person, without payment of any fee, at all reasonable hours during the ten days next preceding the said fifteenth

Notices of objection to persons
not entitled to be
retained in the
lists.

Lists of claimants,
and of persons
objected to, to be
published, &c.

day of September in the present and in every succeeding year, and shall deliver a copy of each of such lists to any person requiring the same, on payment of one shilling for each copy." (7.) *Electors, Registration of, for Boroughs.*

Barristers may require overseers, collectors, &c. to produce their books on the revision of the lists of voters. See page 35.

As to the expenses of overseers, clerks of the peace, returning officers, &c. see *post*, page 36.

Liverymen.]—By sect. 48, "for providing a list of such of the freemen of the city of London as are liverymen of the several companies entitled to vote in the election of a member or members to serve in any future parliament for the city of London, the returning officer or officers of the said city shall, on or before the last day of July in each year, issue precepts to the clerks of the said livery companies, requiring them forthwith to make out, or cause to be made out, at the expense of the respective companies, an alphabetical list, according to the form in the schedule (K.) to this act annexed, of the freemen of London being liverymen of the said respective companies, and entitled to vote in such election; and every such clerk shall sign such list, and transmit the same, with two printed copies thereof, to such returning officer or officers, who shall forthwith fix one such copy in the Guildhall and one in the Royal Exchange to the said city, there to remain fourteen days in the present and in every subsequent year; and the clerks of the said livery companies shall cause a sufficient number of such lists of freemen and liverymen of their respective companies to be printed at the expense of the respective companies, and shall keep the same, to be perused by any person, without payment of any fee, at all reasonable hours during the two first weeks after such lists shall have been printed; and every person whose name shall have been omitted in any such list of freemen and liverymen, and who shall claim to have his name inserted therein as having been entitled on the last day of July then next preceding, shall, on or before the twenty-fifth day of August in the present and in every succeeding year, give or cause to be given a notice in writing according to the form numbered 1. in the said schedule (K.), or to the like effect, to the returning officer or officers, and to the clerk of that company in the list whereof he shall claim to have his name inserted; and the returning officer or officers shall include the names of all persons so claiming as aforesaid in a list according to the form numbered 2. in the said schedule (K.), and shall cause such last-mentioned list to be fixed in the Guildhall and Royal Exchange of the said city, on the two Mondays next preceding the fifteenth day of September in the present and in every succeeding year; and the said returning officer or officers, and clerks of the said companies, shall likewise keep a copy of the names of all the persons so claiming as aforesaid, to be perused by any person, without payment of any fee, at all reasonable hours during the ten days next preceding the said fifteenth day of September in the present and in every succeeding year; and every person who shall object to any other person as not having been entitled on the last day of July then next preceding to have his name inserted in any such livery list shall, on or before the twenty-fifth day of August in the present and in every succeeding year, give to such other person, or leave at his usual place of abode, a notice in writing according to the form numbered 3. in the said schedule (K.), or to the like effect; and in the city of London the returning officer or officers shall take the poll or votes of such freemen of the said city being liverymen of the several companies as are entitled to vote at such election in the Guildhall of the said city; and the said returning officer or officers shall not be required to provide any booth or compartments, but shall appoint or take one poll for the whole number of such liverymen at the same place."

List of liverymen of London to be transmitted to the returning officer.

Notices of omissions and objections in list.

Poll of liverymen to be taken at Guildhall.

If, however, the person so qualified as a liveryman be also qualified in respect of premises occupied by him within the city, he may record his vote under either qualification.

By the 5 & 6 Wil. IV. c. 36, s. 7, "such of the freemen of the city of London, being liverymen, as are or shall be entitled to vote in the election of members to serve in any future parliament for the city of London in the Liverymen of London, entitled to vote in respect of premises, may

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vote at the booth for the district where such premises are situate.

Guildhall, and who are or shall be also entitled to vote in such election as owner or tenant of premises in such city, shall be entitled to vote at any such election at the booth or place appointed for the parish, district, or part wherein the property may be situate in respect of which he is so entitled to vote as aforesaid; and that such vote shall be entered in the poll-books either as the vote of a liveryman, or as owner or tenant, as the person so voting shall direct."

VIII. Appointment and Duties of Revising Barristers for Counties.

Judges of assize to name barristers, who shall revise county lists.

By 2 Wil. IV. c. 45, sect. 41, "the Lord Chief Justice of the Court of King's Bench for the time being shall in the month of July or August in every year nominate and appoint for Middlesex, and the senior judge for the time being in the commission of assize for every other county shall, when travelling the summer circuit, in every year, nominate and appoint for every such county, or for each of the ridings, parts, or divisions of such county, a barrister or barristers to revise the lists of voters in the election of a knight or knights of the shire; and such barrister or barristers so appointed as aforesaid shall give public notice, as well by advertisement in some of the newspapers circulating within the county, riding, parts, or division, as also by a notice to be fixed in some public and conspicuous situation at the principal place of election for the county, riding, parts, or division (such last-mentioned notice to be given three days at the least before the commencement of his or their circuit), that he or they will make a circuit of the county, riding, parts, or division, for which he or they shall be so appointed, and of the several times and places at which he or they will hold courts for that purpose, such times being between the fifteenth day of September inclusive and the twenty-fifth day of October inclusive in every year, and he or they shall hold open courts for that purpose at the times and places so to be announced; and where two or more barristers shall be appointed for the same county, riding, parts, or division, they shall attend at the same places together, but shall sit apart from each other, and hold separate courts at the same time for the despatch of business: provided always, that no member of parliament, nor any person holding any office or place of profit under the crown, shall be appointed such barrister, and that no barrister so appointed as aforesaid shall be eligible to serve in parliament for eighteen months from the time of such his appointment for the county, riding, parts, or division for which he shall be so appointed."

Clerk of the peace and overseers to attend before barristers, who shall retain on the county lists all names not objected to, and expunge those objected to, and not qualified.

By sect. 42, "the clerk of the peace shall, at the opening of the first court to be held by every such barrister for any county, or for any riding, parts, or division of a county, produce or cause to be produced before him the several lists of voters for such county, riding, parts, or division, which shall have been delivered to such clerk of the peace by the high constables as aforesaid; and the overseers of every parish and township who shall have made out the lists of voters shall attend the court to be held by every such barrister at the place appointed for revising the lists relating to such parish or township respectively, and shall also deliver to such barrister a copy of the list of the persons objected to, so made out by them as aforesaid; and the said overseers shall answer upon oath all such questions as such barrister may put to them or any of them touching any matter necessary for revising the lists of voters; and every such barrister shall retain on the lists of voters the names of all persons to whom no objection shall have been made by the overseers, or by any other person, in the manner herein-before mentioned; and he shall also retain on the list of voters the name of every person who shall have been objected to by any person other than the overseers, unless the party so objecting shall appear by himself or by some one on his behalf in support of such objection; and where the name of any person inserted in the list of voters shall have been objected to by the overseers, or by any other person, in the manner herein-before mentioned, and such person so objecting shall appear by himself or by some one on his behalf in support of such objection, every such barrister shall require it to be proved that the person so objected to was entitled on the last day of July then next preceding to

have his name inserted in the list of voters in respect of the qualification described in such list; and in case the same shall not be proved to the satisfaction of such barrister, or in case it shall be proved that such person was then incapacitated by any law or statute from voting in the election of members to serve in parliament, such barrister shall expunge the name of every such person from the said lists; and he shall also expunge from the said lists the name of every person who shall be proved to him to be dead; and shall correct any mistake which shall be proved to him to have been made in any of the said lists as to any of the particulars by this act required to be inserted in such lists; and where the christian name of any person, or his place of abode, or the nature of his qualification, or the local or other description of his property, or the name of the tenant in the occupation thereof, as the same respectively are required to be inserted in any such list, shall be wholly omitted therefrom, such barrister shall expunge the name of every such person from such list, unless the matter or matters so omitted be supplied to the satisfaction of such barrister before he shall have completed the revision of such list, in which case he shall then and there insert the same in such list: provided always, that no person's name shall be expunged from any such list except in case of his death, or of his being objected to on the margin of the list by the overseers as aforesaid, or except in case of any such omission or omissions as herein-before last mentioned, unless such notice as is herein-before required in that behalf shall have been given to the overseers, nor unless such notice as is herein-before required in that behalf shall have been given to such person, or left at his place of abode, or delivered to his tenant, as herein-before mentioned."

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May rectify mistakes and supply omissions.

Proviso not to expunge except, &c.

By sect. 43, "if it shall happen that any person who shall have given to the overseers of any parish or township due notice of his claim to have his name inserted in the list of voters in the election of a knight or knights of the shire shall have been omitted by such overseers from such list, it shall be lawful for the barrister, upon the revision of such list, to insert therein the name of the person so omitted, in case it shall be proved to the satisfaction of such barrister that such person gave due notice of such his claim to the said overseers, and that he was entitled on the last day of July then next preceding to be inserted in the list of voters in the election of a knight or knights of the shire for the county, or for the riding, parts, or division of the county, wherein the parish or township of such overseers may be situate, in respect of any lands or tenements within such parish or township."

Barrister may insert in county lists names of claimants omitted by overseers on proof of claim and qualification.

IX. Appointment and Duties of Revising Barristers for Boroughs.

By 2 Wil. IV. c. 45, s. 49, "the Lord Chief Justice of the Court of King's Bench for the time being shall, in the month of July or August in every year, nominate and appoint so many barristers as the said Lord Chief Justice shall deem necessary to revise the respective lists of voters for the city of London and for the city of Westminster, and for the several boroughs in the county of Middlesex; and the senior judge for the time being in the commission of assize for every other county shall, when travelling the summer circuit, in every year, nominate and appoint so many barristers as the said judge shall deem necessary, to revise the respective lists of voters, as well for the several cities and boroughs in every such county, as for every city and town, and county of a city and town, next adjoining to any such county; and the town and county of the town of Kingston-upon-Hull shall for this purpose be considered as next adjoining to the county of York, and the town and county of the town of Newcastle-upon-Tyne as next adjoining to the county of Northumberland, and the city and county of the city of Bristol as next adjoining to the county of Somerset; and the said Lord Chief Justice and Judge respectively shall have power to nominate and appoint one or more barristers to revise the lists for the same city or borough or other place as aforesaid, or one barrister only, to revise the lists for several cities, bo-

Judges to name barristers to revise borough lists.

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Barrister to
revise lists, and
upon due proof
to insert and ex-
punge names.

roughs, and other places as aforesaid : provided always, that no member of parliament, nor any person holding any office or place of profit under the crown, shall be appointed as such barrister as aforesaid, and that no barrister so appointed as aforesaid shall be eligible to serve in parliament for eighteen months from the time of his appointment for any city, borough, or other place as aforesaid for which he shall be so appointed : provided also, that nothing herein contained shall prevent the same barrister from being appointed to revise the lists for two or more counties, ridings, parts, or divisions, or for any county, riding, parts, or division, and any one or more of the cities or boroughs therein."

By sect. 50, "the barrister or barristers so appointed to revise the lists of voters for any city or borough shall hold an open court or courts for that purpose within such city or borough, and also within every place sharing in the election for such city or borough, at some time between the fifteenth day of September inclusive and the twenty-fifth day of October inclusive in every year, having first given three clear days notice of the holding of such court or courts, to be fixed on the doors of all the churches and chapels within such city, borough, or place respectively, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively ; and the overseers and town clerks, who shall have made out the lists of voters as aforesaid, and in the case of the city of London the returning officer or officers of the said city, shall, at the opening of the first court to be held by every such barrister for revising such lists, produce their respective lists before him ; and the said overseers and town clerks shall also deliver to such barrister a copy of the list of the persons objected to, so made out by them as aforesaid ; and the clerks of the several livery companies of the city of London, and the town clerk of every other city or borough, or place sharing in the election therewith, and the several overseers within every city, borough, or place, as aforesaid, shall attend the court to be held by every such barrister for any such city, borough, or place as aforesaid, and shall answer upon oath all such questions as such barrister may put to them or any of them touching any matter necessary for revising the lists of voters ; and every such barrister shall insert in such lists the name of every person who shall be proved to his satisfaction to have been entitled on the last day of July then next preceding to have his name inserted in any such list of voters for such city or borough ; and such barrister shall retain on the lists of voters for such city or borough the names of all persons to whom no objection shall have been made in the manner herein-before mentioned, and he shall also retain on the said lists the name of every person who shall have been objected to by any person, unless the party so objecting shall appear by himself, or by some one on his behalf, in support of such objection ; and where the name of any person inserted in the list of voters for such city or borough shall have been objected to in the manner herein-before mentioned, and the person so objecting shall appear by himself, or by some one on his behalf, in support of such objection, every such barrister shall require it to be proved that the person so objected to was entitled on the last day of July then next preceding to have his name inserted in the list of voters for such city or borough in respect of the qualification described in such list, and in case the same shall not be proved to the satisfaction of such barrister, or in case it shall be proved that such person was then incapacitated by any law or statute from voting in the election of members to serve in parliament, such barrister shall expunge the name of every such person from the said lists, and he shall also expunge from the said lists the name of every person who shall be proved to him to be dead, and shall correct any mistake which shall be proved to him to have been made in any of the said lists as to any of the particulars by this act required to be inserted in such lists ; and where the christian name, or the place of abode, or the nature of the qualification, or the local description of the property of any person who shall be included in any such list, shall be wholly omitted in such list in any case where the same is by this act directed to be specified therein, such barrister shall expunge the name of every such person from such list, unless the matter or

May rectify mis-
takes and supply
omissions in the
lists.

matters so omitted be supplied to the satisfaction of such barrister before he shall have completed the revision of such list, in which case he shall then and there insert the same in such list: provided always, that no person's name shall be inserted by such barrister in any such list, for any city or borough, or shall be expunged therefrom, except in the case of death, or of such omission or omissions as herein-before last mentioned, unless such notice shall have been given as is herein-before required in each of the said cases."

(9.) *Revising Barristers for Boroughs.*

By sect. 51, "the overseers of every parish or township shall, for their assistance in making out the lists in pursuance of this act (upon request made by them or any of them at any reasonable time between the first day of June and the last day of July in any year, to any assessor or collector of taxes, or to any other officer having the custody of any duplicate or tax assessment for such parish or township), have free liberty to inspect any such duplicate or tax assessment, and to extract from thence such particulars as may appear to such overseer or overseers to be necessary; and every barrister appointed under this act shall have power to require any assessor, collector of taxes, or other officer having the custody of any duplicate or tax assessment, or any overseer or overseers having the custody of any poor rate, to produce the same respectively before him at any court to be held by him, for the purpose of assisting him in revising the lists to be by him revised in pursuance of this act."

May inspect tax assessments and rate books.

Barrister may require production.

By sect. 52, "every barrister holding any court under this act as aforesaid shall have power to adjourn the same from time to time, and from any one place to any other place or places within the same county, riding, parts, or division, or within the same city or borough, or within any place sharing in the election for such city or borough, but so as that no such adjourned court shall be held after the twenty-fifth day of October in any year; and every such barrister shall have power to administer an oath (or, in the case of a Quaker or Moravian, an affirmation) to all persons making objection to the insertion or omission of any name in any of such lists as aforesaid, and to all persons objected to or claiming to be inserted in any of such lists, or claiming to have any mistake corrected or any omission supplied in any of such lists, and to all witnesses who may be tendered on either side; and if any person taking any oath or making any affirmation under this act shall wilfully swear or affirm falsely, such person shall be deemed guilty of perjury, and shall be punished accordingly; and at the holding of such respective courts the parties shall not be attended by counsel; and every such barrister shall, upon the hearing in open court, finally determine upon the validity of such claims and objections, and shall for that purpose have the same powers and proceed in the same manner (except where otherwise directed by this act) as the returning officer of any county, city, or borough, according to the laws and usages now observed at elections; and such barrister shall in open court write his initials against the names respectively struck out or inserted, and against any part of the said lists in which any mistake shall have been corrected or any omission supplied, and shall sign his name to every page of the several lists so settled."

Barrister's power of adjourning, of administering oaths, &c.;

Must settle and sign the lists in open court.

By sect. 53, "if it shall be made to appear to the Lord Chief Justice or Judge who shall have appointed any barrister or barristers under this act to revise the list of voters, that by reason of the death, illness, or absence of any such barrister or barristers, or by reason of the insufficiency of the number of such barristers, or from any other cause, such lists cannot be revised within the period directed by this act, it shall be lawful for such Lord Chief Justice or Judge, and he is hereby required, to appoint one or more barrister or barristers to act in the place of or in addition to the barrister or barristers originally appointed; and such barrister or barristers so subsequently appointed shall have the same powers and authorities in every respect as if they had been originally appointed by such Lord Chief Justice or Judge."

Judges to appoint additional barristers in case of need.

By sect. 54, "the lists of voters for each county, or for the riding, parts, or division of each county, so signed as aforesaid by any such barrister, shall

County lists to be transmitted to

(9.) *Revising Barristers for Boroughs.*

clerk of the peace; borough lists to be kept by returning officer, and handed to his successor.

Lists to be copied into books, with the names numbered.

Register to be in force from 1st Nov. to 1st Nov.

Copies of the lists and of the registers to be printed for sale.

Expenses of overseers, clerks of the peace, &c. how defrayed.

be forthwith transmitted by him to the clerk of the peace of the county, riding, or parts for which such barrister shall have been appointed; and the clerk of the peace shall keep the said lists among the records of the sessions, arranged with every hundred in alphabetical order, and with every parish and township within such hundred likewise in alphabetical order, and shall forthwith cause the said lists to be fairly and truly copied in the same order in a book to be by him provided for that purpose, and shall prefix to every name so copied out its proper number, beginning the numbers from the first name, and continuing them in a regular series down to the last name, and shall complete and deliver such book on or before the last day of October in every year to the sheriff of the county, or his under sheriff, who shall safely keep the same, and shall at the expiration of his office deliver over the same to the succeeding sheriff or his under sheriff; and the lists of voters for each city or borough, so signed as aforesaid by any such barrister, shall be forthwith delivered by him to the returning officer for such city or borough, who shall safely keep the same, and shall cause the said lists to be fairly and truly copied in a book to be by him provided for that purpose, with every name therein numbered according to the directions aforesaid, and shall cause such book to be completed on or before the last day of October in every year, and shall deliver over such book, together with the lists, at the expiration of his office, to the person succeeding him in such office."

After providing for the possibility of an election in that or the following year (1833), the clause continues:—"And every such book to be so completed on or before the last day of October in every year, shall be the register of electors to vote at any election which shall take place between the first day of November inclusive in the year wherein such respective register shall have been made and the first day of November in the succeeding year."

By sect. 55, "the overseers of every parish and township shall cause to be written or printed copies of the lists so by them to be made in the present and in every succeeding year, and shall deliver such copies to all persons applying for the same, on payment of a reasonable price for each copy; and the monies arising from the sale thereof shall be accounted for by the said overseers, and applied to the same purposes as monies collected for the relief of the poor; and the clerks of the peace shall cause to be written or printed copies of the registers of the electors for their respective counties, ridings, or parts, or for the divisions of their respective counties; and the returning officer of every city or borough shall cause to be written or printed copies of the register of the electors for such city or borough; and every such clerk of the peace, and every such returning officer, shall deliver such respective copies to all persons applying for the same, on payment of a reasonable price for each copy; and the monies arising from the sale of all such copies shall be accounted for to the treasurer of the county, riding, or parts."

By sect. 56, "for the purpose of defraying the expenses to be incurred by the overseers of the poor and by the clerk of the peace in carrying into effect the several provisions of this act, so far as relates to the electors for any county, or for any riding, parts, or division of a county, every person, upon giving notice of his claim as such elector to the overseers, as herein-before mentioned, shall pay or cause to be paid to the said overseers the sum of one shilling; and such notice of claim shall not be deemed valid until such sum shall have been paid; and the overseers of each parish or township shall add all monies so received by them to the money collected or to be collected for the relief of the poor in such parish or township, and such monies so added shall be applicable to the same purposes as monies collected for the relief of the poor; and for the purpose of defraying the expenses to be incurred by the returning officer of every city and borough, and by the overseers of the several parishes and townships in every city and borough, and place sharing in the election therewith, in carrying into effect the provisions of this act, so far as relates to the electors for such city or borough, every such elector whose name shall be upon the register of voters for such

city or borough for the time being shall be liable to the payment of one shilling annually, which sum shall be levied and collected from each elector, in addition to and as a part of the money payable by him as his contribution to the rate for the relief of the poor, and such sum shall be applicable to the same purposes as money collected for the relief of the poor; and the expenses incurred by the overseers of any parish or township in making out, printing, and publishing the several lists and notices directed by this act, and all other expenses incurred by them in carrying into effect the provisions of this act, shall be defrayed out of the money collected or to be collected for the relief of the poor in such parish or township; and all expenses incurred by the returning officer of any city or borough in causing the lists of the electors for such city or borough to be copied out and made into a register, and in causing copies of such register to be written or printed, shall be defrayed by the overseers of the poor of the several parishes and townships within such city or borough, or place sharing in the election therewith, out of the money collected or to be collected for the relief of the poor in such parishes and townships, in proportion to the number of persons placed on the register of voters for each parish or township; and all expenses incurred by the clerk of the peace of any county, riding, or parts, in causing the lists of the electors for such county, riding, or parts, or for any division of such county, to be copied out and made into a register, and in causing copies of such register to be written or printed, and in otherwise carrying into effect the provisions of this act, shall be defrayed by the treasurer of such county, riding, or parts, out of any public money in his hands, and he shall be allowed all such payments in his accounts: provided always, that no expenses incurred by any clerk of the peace under this act shall be so defrayed unless the account shall be laid before the justices of the peace at the next quarter sessions after such expenses shall have been incurred, and allowed by the court."

(10.) *Proceedings before, and at, Elections for Counties.*

By sect. 57, "every barrister appointed to revise any lists of voters under this act shall be paid at the rate of five guineas for every day that he shall be so employed, over and above his travelling and other expenses; and every such barrister, after the termination of his last sitting, shall lay or cause to be laid before the Lords Commissioners of His Majesty's treasury for the time being a statement of the number of days during which he shall have been so employed, and an account of the travelling and other expenses incurred by him in respect of such employment; and the said Lords Commissioners shall make an order for the amount to be paid to such barrister."

Remuneration of the barristers.

X. Proceedings prior to and at the Election of Members for Counties.

By the 2 Wil. IV. c. 45, sect. 61, "the sheriffs of Yorkshire and Lincolnshire, and the sheriffs of the counties divided by that act, are to cause proclamation to be made of the several days fixed for the election of a knight or knights of the shire for the several ridings, parts and divisions of their respective counties, and preside at the election by themselves or their lawful deputies."

Sheriffs of the divided counties to fix the time and preside at elections.

By the 23 Hen. VI. c. 14, sect. 2, the sheriff is to open the election on the day appointed, between the hours of eight and eleven in the forenoon.

By the 2 Geo. II. c. 24, sect. 3, before the returning officer shall proceed to the election, he shall, immediately after the reading of the writ, take and subscribe the following oath, to be administered by a justice of the peace or any three electors:—

Returning officer to be sworn.

I, A. B., do solemnly swear, that I have not, directly or indirectly, received any sum or sums of money, office, place, or employment, gratuity or reward, or any bond, bill, or note, or any promise or gratuity whatsoever, either by myself, or any other person, to my use or benefit or advantage, for making any return at the present election of members to serve in parliament; and that I will return such person or persons as shall, to the best of my judgment, appear to me to have the majority of legal votes.

Which oath shall be entered amongst the records of the sessions.

(10.) *Proceedings before, and at, Elections for Counties.*

2 Wil. 4, c. 45.
Commencement and continuance of polls at county elections.

Counties to be divided into districts for polling.

See *post*, 2 & 3 Wil. 4, c. 64.

Polling booths for counties.

No voter to poll out of the district where his property lies.

6 & 7 Wil. 4, c. 102, additional polling places.

Expenses.

2 Wil. 4, c. 45.
Sheriff's deputies, custody of poll books, and final declaration of the poll.

And by sect. 9, it is directed to be read openly before the electors, under a penalty of 50*l*.

The candidates are then nominated and seconded, and if the election be not determined on view, and a poll be demanded,

By 2 Wil. IV. c. 45, sect. 62, "at every contested election of a knight or knights to serve in any future parliament for any county, or for any riding, parts, or division of a county, the polling is directed to commence at nine o'clock in the forenoon of the next day but two after the day fixed for the election, unless such next day but two be Saturday or Sunday, and then on the Monday following, at the principal place of election, and also at the several places to be appointed as thereafter directed for taking polls; and such polling to continue for two days only, such two days being successive days; (that is to say,) for seven hours on the first day of polling, and for eight hours on the second day of polling; and no poll to be kept open later than four o'clock in the afternoon of the second day; any statute to the contrary notwithstanding."

By sect. 63, "the respective counties in England and Wales, and the respective ridings, parts, and divisions of counties, shall be divided into convenient districts for polling, and in each district shall be appointed a convenient place for taking the poll at all elections of a knight or knights of the shire to serve in any future parliament, and such districts and places for taking the poll shall be settled and appointed by the act to be passed in this present parliament for the purpose of settling and describing the divisions of the counties enumerated in the schedule marked (F.) to this act annexed; provided that no county, nor any riding, parts or division of a county, shall have more than fifteen districts and respective places appointed for taking the poll for such county, riding, parts or division."

By sect. 54, "at every contested election for any county, or riding, parts, or division of a county, the sheriff, under sheriff, or sheriff's deputy shall, if required thereto, by or on behalf of any candidate, on the day fixed for the election, and if not so required, may, if it shall appear to him expedient, cause to be erected a reasonable number of booths for taking the poll at the principal place of election, and also at each of the polling places so to be appointed as aforesaid, and shall cause to be affixed on the most conspicuous part of each of the said booths the names of the several parishes, townships, and places for which such booth is respectively allotted; and no person shall be admitted to vote at any such election in respect of any property situate in any parish, township, or place, except at the booth so allotted for such parish, township, or place, and if no booth shall be so allotted for the same, then at any of the booths for the same district; and in case any parish, township, or place, shall happen not to be included in any of the districts to be appointed, the votes in respect of property, situate in any parish, township or place so omitted shall be taken at the principal place of election for the county, or riding, parts, or division of the county, as the case may be."

By the 6 & 7 Wil. IV. c. 102, additional polling places may be appointed upon petition from justices assembled in quarter sessions. See the enactments in full, *post*, Addenda, p. 1151.

As to expenses of booths see *post*, p. 43.

By 2 Wil. IV. c. 45, s. 65, "the sheriff shall have power to appoint deputies to preside and clerks to take the poll at the principal place of election, and also at the several places appointed for taking the poll for any county, or any riding, parts, or division of a county; and the poll clerks employed at those several places shall at the close of each day's poll enclose and seal their several books, and shall publicly deliver them, so enclosed and sealed, to the sheriff, under sheriff, or sheriff's deputy presiding at such poll, who shall give a receipt for the same, and shall, on the commencement of the poll on the second day, deliver them back, so enclosed and sealed, to the persons from whom he shall have received them; and on the final close of the poll every such deputy who shall have received any such poll books shall forthwith deliver or transmit the same, so enclosed and sealed, to the sheriff or his under sheriff, who shall receive and keep all the poll books unopened until the re-assembling

of the court on the day next but one after the close of the poll, unless such next day but one shall be Sunday, and then on the Monday following, when he shall openly break the seals thereon, and cast up the number of votes as they appear on the said several books, and shall openly declare the state of the poll, and shall make proclamation of the member or members chosen, not later than two o'clock in the afternoon of the said day." (10.) *Proceedings before, and at Election for Counties.*

By sect. 66, "in all matters relative to the election of knights or a knight of the shire to serve in any future parliament for any county, or for any riding, parts, or division of a county, the sheriff of the county, his under sheriff, or any lawful deputy of such sheriff, shall have power to act in all places having any exclusive jurisdiction or privilege whatsoever, in the same manner as such sheriff, under sheriff, or deputy may act within any part of such sheriff's ordinary jurisdiction." Sheriff in county elections may act in places of exclusive jurisdiction.

By sect. 58, "in all elections whatever of members to serve in any future parliament no inquiry shall be permitted at the time of polling, as to the right of any person to vote, except only as follows; that is to say, that the returning officer or his respective deputy shall, if required on behalf of any candidate, put to any voter at the time of his tendering his vote, and not afterwards, the following questions, or any of them, and no other: Inquiries at the time of election, identity of voter, continuance of qualification, and whether he has voted before at same election.

1. Are you the same person whose name appears as A. B. on the register of voters now in force for the county of [or "for the riding," "parts," or "division," &c. or "for the city," &c. as the case may be]?

2. Have you already voted, either here or elsewhere, at this election for the county of [or "for the riding," "parts," or "division of the county of," or "for the city or borough of," as the case may be]?

3. Have you the same qualification for which your name was originally inserted in the register of voters now in force for the county of, &c. [or "for the riding," &c., or "for the city," &c., as the case may be, specifying in each case the particulars of the qualification as described in the register]?

And if any person shall wilfully make a false answer to any of the questions aforesaid, he shall be deemed guilty of an indictable misdemeanour (a), and shall be punished accordingly; and the returning officer or his deputy, or a commissioner or commissioners to be for that purpose by him or them appointed, shall (if required on behalf of any candidate at the time aforesaid) administer an oath (or, in case of a Quaker or Moravian, an affirmation) to any voter in the following form; (that is to say, Oath, if required.

"You do swear, [or, being a Quaker or Moravian, "do affirm"] That you are the same person whose name appears as A. B. on the register of voters now in force for the county of [or "for the riding," "parts," or "division of the county of," or "for the city or borough of," as the case may be], and that you have not before voted, either here or elsewhere, at the present election for the said county [or for the said riding, parts, or division of the said county, or for the said city or borough, as the case may be].—So help you GOD."

Much doubt has arisen upon the construction of the third quære, whether the words "Have you the same qualification," mean the identical qualification for which the elector's name has been inserted in the list, or a qualification corresponding in amount and quality to that annexed to the name? The words are certainly ambiguous, and many persons have with honest intention given an affirmative answer, though they have changed their residence subsequently to the publication of the list. The general opinion, however, seems to be, that the qualification must be the identical premises for which the name was originally entered in the list.

An explanatory enactment will probably be passed by the legislature in the course of the next session, which may set the question at rest. At present, the received construction disables any elector to vote who has changed the premises, or ceased to occupy the particular house, warehouses, &c. under which his name has appeared in the published lists.

(a) See Form of Indictment, *post*.

(10.) *Proceedings before, and at Election for Counties.*

No other oath as to qualification.

No scrutiny by returning officer.

Oaths.

Votes excluded from the register by the barrister may be tendered at elections, and recorded.

Correctness of the register to be questionable before a committee of the House of Commons.

"And no elector shall hereafter at any such election be required to take any oath or affirmation, except as aforesaid, either in proof of his freehold or of his residence, age, or other qualification or right to vote, any law or statute, local or general, to the contrary notwithstanding; and no person claiming to vote at any such election shall be excluded from voting thereat, except by reason of its appearing to the returning officer or his respective deputy, upon putting such questions as aforesaid, or any of them, that the person so claiming to vote is not the same person whose name appears on such register as aforesaid, and that he has previously voted at the same election, or that he has not the same qualification for which his name was originally inserted in such register, or except by reason of such person refusing to take the said oath or make the said affirmation, or to take or make the oath or affirmation against bribery, or any other oath or affirmation now required by law, and not hereby dispensed with; and no scrutiny shall hereafter be allowed by or before any returning officer with regard to any votes given or tendered at any election of a member or members to serve in any future parliament; any law, statute, or usage to the contrary notwithstanding."

It is to be observed that this clause only limits the power of administering any other oath respecting the elector's freehold, residence, age, or qualification. The stat. 2 Geo. II. c. 24, still permits either of the candidates or any two electors to require the bribery oath to be administered. The stat. 1 Geo. I. st. 2, c. 13, imposing the oaths of allegiance and supremacy at the request of any candidate, and the stat. 6 Geo. III. c. 53, s. 1, authorising the administering of the oath of abjuration at the request either of a candidate or of any person present, are now dispensed with by the 5 & 6 Wil. IV. c. 36.

By sect. 59, "any person whose name shall have been omitted from any register of voters in consequence of the decision of the barrister who shall have revised the lists from which such register shall have been formed may tender his vote at any election at which such register shall be in force, stating at the time the name or names of the candidate or candidates for whom he tenders such vote, and the returning officer or his deputy shall enter upon the poll book every vote so tendered, distinguishing the same from the votes admitted and allowed at such election."

By sect. 60, "upon petition to the House of Commons, complaining of an undue election or return of any member or members to serve in parliament, any petitioner, or any person defending such election or return, shall be at liberty to impeach the correctness of the register of voters in force at the time of such election, by proving that in consequence of the decision of the barrister who shall have revised the list of voters from which such register shall have been formed the name of any person who voted at such election was improperly inserted or retained in such register, or the name of any person who tendered his vote at such election improperly omitted from such register; and the select committee appointed for the trial of such petition shall alter the poll taken at such election according to the truth of the case, and shall report their determination thereupon to the House, and the House shall thereupon carry such determination into effect, and the return shall be amended, or the election declared void, as the case may be, and the register corrected accordingly, or such other order shall be made as to the House shall seem proper."

XI. Proceedings previous to and at the Election of Members for Boroughs.

The Returning Officer takes the Bribery oath, and reads the Precept and the Bribery Act, as in County Elections. At Durham, New Shoreham, Cricklade, and Aylesbury special Acts are read. The Candidates are then nominated, and if required must take the oath hereafter mentioned. (See *post*, 52.)

By the 5 & 6 Wil. IV. c. 36, s. 6, "no elector at any election shall be required to take the oaths commonly called the oaths of allegiance, abjuration, and supremacy, nor any oath or oaths required to be taken by any act of parliament in lieu thereof; any law or statute to the contrary notwithstanding." (This applies *generally* to all elections whether for counties or boroughs.)

(11.) *Proceedings before, and at Election for Boroughs.*

Oaths of allegiance, supremacy, and abjuration not to be taken.

And by the same statute, after reciting that it would tend to promote the purity of elections and the diminution of expense if the poll at all contested elections of members to serve in parliament for cities, boroughs, and towns, or for counties of cities or counties of towns, were taken in one day: and that by an act passed in the second year of the reign of his present Majesty King William the Fourth, intituled "An Act to amend the Representation of the People in England and Wales," it is among other things enacted, "that such poll may remain open during the space of two days: and that it is expedient to repeal that part of the said recited act which allows the poll so to continue open during the space of two days; it is enacted, that from and after the passing of the said act such part of the said recited act as allows the poll to continue open during two days in cities, boroughs, and towns, or in counties of cities or counties of towns, be repealed, and the same is hereby repealed."

Repeal of part of 2 W. 4, c. 45.

By sect. 2, "at every contested election of a member or members to serve in parliament for any city, borough, or town, or county of a city or county of a town, the polling shall commence at eight of the clock in the forenoon of the day next following the day fixed for the election; and the polling shall continue during such one day only; and no poll shall be kept open later than four of the clock in the afternoon: provided always, that when such day next following the day fixed for the election shall be Sunday, Good Friday, or Christmas Day, then in the case it be Sunday the poll shall be on the Monday next following; and in the case it be Good Friday, then on the Saturday next following; and in the case it be Christmas Day, then on the next following day, if the same shall not be Sunday, and if it be Sunday, on the next following Monday."

Period of polling for boroughs limited to one day.

The Borough of Monmouth was excepted in the 67 sect. of the 2 Wil. IV. c. 45, limiting the period of polling, and remains, together with the contributory Boroughs of Wales, subject to the regulations imposed by the 74th section of that act.

By 2 Wil. IV. c. 45, s. 68, "at every contested election of a member or members to serve in any future parliament for any city or borough in England, except the borough of Monmouth, the returning officer shall, if required thereto by or on behalf of any candidate, on the day fixed for the election, and if not so required may, if it shall appear to him expedient, cause to be erected for taking the poll at such election different booths for different parishes, districts, or parts of such city or borough, which booths may be situated either in one place or in several places, and shall be so divided and allotted into compartments as to the returning officer shall seem most convenient."

Polling for boroughs in England to be at several booths.

By 5 & 6 Wil. IV. c. 36, s. 3, "the polling booths or compartments at each polling place shall be so divided and arranged by the sheriff or other returning officer that not more than three hundred electors shall be allotted to poll in each such booth or compartment."

Not more than 300 voters to one booth.

By sect. 4, "on the requisition of any candidate, or of any elector being the proposer or seconder of any candidate, the booths or compartments of each polling place shall be so divided and arranged by the sheriff or other returning officer that not more than one hundred electors shall be allotted to poll in each such booth or compartment: provided always, that such candidate or elector making such requisition shall pay all expenses incident upon such division or arrangement."

Not more than 100, if so required.

By sect. 5, "in case any requisition as aforesaid shall be made on or before the day fixed for the election, the sheriff or other returning officer shall

On such requisition, notice to

(11.) *Proceedings before, and at Election for Boroughs.*

be given of the situation of booths.

Each person to vote at the booth for his district.

If booths in different places, a deputy to preside at each.

Custody of poll books and final declaration of poll.

Polling districts for Shoreham, Cricklade, Aylesbury, and East Retford.

Adjournment of nomination or poll in case of riot.

forthwith give public notice of the situation of such booths, which shall be deemed to be sufficient notice, any law or statute to the contrary notwithstanding."

By 2 Wil. IV. c. 45, sect. 68, "the returning officer shall appoint a clerk to take the poll at each compartment, and shall cause to be affixed on the most conspicuous part of each of the said booths the names of the several parishes, districts, and parts for which such booth is respectively allotted; and no person shall be admitted to vote at any such election, except at the booth allotted for the parish, district, or part wherein the property may be situate in respect of which he claims to vote, or in case he does not claim to vote in respect of property, then wherein his place of abode as described in the register may be; but in case no booth shall happen to be provided for any particular parish, district, or part as aforesaid, the votes of persons voting in respect of property situate in any parish, district, or part so omitted, or having their place of abode therein, may be taken at any of the said booths, and the votes of freemen residing out of the limits of the city or borough may be taken at any of the said booths; and public notice of the situation, division, and allotment of the different booths shall be given two days before the commencement of the poll by the returning officer; and in case the booths shall be situated in different places, the returning officer may appoint a deputy to preside at each place; and at every such election the poll clerks at the close of each day's poll shall enclose and seal their several poll books, and shall publicly deliver them, so enclosed and sealed, to the returning officer or his deputy, who shall give a receipt for the same, and shall, on the commencement of the poll on the second day, deliver them back, so enclosed and sealed, to the persons from whom he shall have received the same; and every deputy so receiving any such poll books, on the final close of the poll, shall forthwith deliver or transmit the same, so enclosed and sealed, to the returning officer, who shall receive and keep all the poll books unopened until the following day, unless such day be Sunday, and then till the Monday following, when he shall openly break the seals thereon, and cast up the number of votes as they appear on the said several books, and shall openly declare the state of the poll, and make proclamation of the member or members chosen, not later than two o'clock in the afternoon of the said day: provided always, that the returning officer, or his lawful deputy, may, if he think fit, declare the final state of the poll, and proceed to make the return immediately after the poll shall have been lawfully closed: provided also, that no nomination shall be made or election holden of any member for any city or borough in any church, chapel, or other place of public worship."

The questions as to the identity of the vote, the continuance of his qualification, and whether he has voted previously at such election, will be found *ante*, page 39, and may be demanded of each elector at every election for boroughs, cities, towns, counties of cities, or counties of towns.

The oath to be administered, in case of requisition by a candidate, or his proposer or seconder, will be found in the same page.

By sect. 69, "so far as relates to the several boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford, as defined by this act, the said several boroughs shall be divided into convenient districts for polling, and there shall be appointed in each district a convenient place for taking the poll at all elections of members to serve in any future parliament for each of the said boroughs, which districts and places for taking the poll shall be settled and appointed by an act to be passed in this present parliament." (See *post*, page 75, 2 & 3 Wil. IV. c. 64.)

By the 5 & 6 Wil. IV. c. 36, s. 8, "where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates or of the taking the poll, the sheriff or other returning officer, or the lawful deputy of any returning officer, shall not for such cause terminate the business of such nomination, nor finally close the poll, but shall adjourn the nomination or

the taking the poll at the particular polling place or places at which such interruption or obstruction shall have happened until the following day, and, if necessary, shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased, when the returning officer or his deputy shall again proceed with the business of the nomination or with the taking the poll, as the case may be, at the place or places at which the same respectively may have been interrupted or obstructed; and the day on which the business of the nomination shall have been concluded shall be deemed to have been the day fixed for the election, and the commencement of the poll shall be regulated accordingly; and any day whereon the poll shall have been so adjourned shall not as to such place or places be reckoned the day of polling at such election, within the meaning of this act; and whenever the poll shall have been so adjourned by any deputy of any sheriff or other returning officer, such deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed, and the poll books delivered or transmitted to such sheriff or other returning officer, any thing herein-before or in any other statute to the contrary notwithstanding: provided always, that this act shall not be taken to authorise an adjournment to a Sunday; but that in every case in which the day to which the adjournment would otherwise be made shall happen to be a Sunday, Good Friday, or Christmas-day, that day or days shall be passed over, and the following shall be the day to which the adjournment shall be made."

(11.) *Proceedings before, and at Election for Boroughs.*

By 2 Wil. IV. c. 45, s. 71, "all booths erected for the convenience of taking polls shall be erected at the joint and equal expense of the several candidates, and the same shall be erected by contract with the candidates, if they shall think fit to make such contract, or if they shall not make such contract, then the same shall be erected by the sheriff or other returning officer at the expense of the several candidates as aforesaid, subject to such limitation as is herein-after next mentioned; (that is to say,) that the expense to be incurred for the booth or booths to be erected at the principal place of election for any county, riding, parts, or division of a county, or at any of the polling places so to be appointed as aforesaid, shall not exceed the sum of forty pounds in respect of any one such principal place of election or any one such polling place; and that the expense to be incurred for any booth or booths to be erected for any parish, district, or part of any city or borough, shall not exceed the sum of twenty-five pounds in respect of any one such parish, district, or part; and that all deputies appointed by the sheriff or other returning officer shall be paid each two guineas by the day, and all clerks employed in taking the poll shall be paid each one guinea by the day, at the expense of the candidates at such election; provided always, that if any person shall be proposed without his consent, then the person so proposing him shall be liable to defray his share of the said expenses in like manner as if he had been a candidate: provided also, that the sheriff or returning officer may, if he shall think fit, instead of erecting such booth or booths as aforesaid, procure or hire and use any houses or other buildings for the purpose of taking the poll therein, subject always to the same regulations, provisions, liabilities, and limitations of expense as are herein-before mentioned with regard to booths for taking the poll."

Candidates, or persons proposing a candidate without his consent, to be at the expense of booths and poll clerks. Limitation of expense.

Houses may be hired for polling in, instead of booths.

By sect. 72, "the sheriff or other returning officer shall, before the day fixed for the election, cause to be made, for the use of each booth or other polling place at such election, a true copy of the register of voters, and shall under his hand certify every such copy to be true."

Certified copies of the register of voters for each booth.

By sect. 73, "every deputy of a sheriff or other returning officer shall have the same power of administering the oaths and affirmations required by law, and of appointing commissioners for administering such oaths and affirmations as may by law be administered by commissioners, as the sheriff or other returning officer has by virtue of this or any other act, and subject

Powers of deputies of returning officers.

(11.) *Proceed- to the same regulations and provisions in every respect as such, sheriff or
ings before, and other returning officer."*
at Election for By sect. 74, "every person who shall have a right to vote in the election of
Boroughs.

Regulations re-
specting polling
for Monmouth
and for the con-
tributory boroughs
in Wales.

a member for the borough of Monmouth, in respect of the towns of Newport or Usk, shall give his vote at Newport or Usk respectively before the deputy for each of such towns, whom the returning officer of the borough of Monmouth is hereby authorised and required to appoint; and every person who shall have a right to vote in the election of a member for any shire-town or borough, in respect of any place named in the first column of the schedule marked (E.) to this act annexed, shall give his vote at such place before the deputy for such place, whom the returning officer of the shire-town or borough is hereby authorised and required to appoint; and every person who shall have a right to vote in the election of a member for the borough composed of the towns of Swansea, Loughor, Neath, Aberavon, and Kenfig, shall give his vote at the town in respect of which he shall be entitled to vote (that is to say), at Swansea before the portreeve of Swansea, and at each of the other towns before the deputy of such town whom the said portreeve is hereby authorised and required to appoint; and at every contested election for the borough of Monmouth, or for any shire-town or borough named in the second column of the said schedule (E.), or for the borough composed of the said five towns, or for the borough of Brecon, the polling shall commence on the day next after the day fixed for the respective election, unless such next day be Saturday or Sunday, and then on the Monday following, as well at Monmouth as at Newport and Usk respectively, and as well at the shire-town or borough as at each of the places sharing in the election therewith respectively, and as well at Swansea as at each of the four other towns respectively; and such polling shall continue for two days only, such two days being successive days (that is to say), for seven hours on the first day of polling, and for eight hours on the second day of polling, and that the poll shall on no account be kept open later than four o'clock in the afternoon of such second day; and the returning officer of the borough of Monmouth shall give to the deputies for Newport and Usk respectively, and the returning officer of every shire town or borough named in the second column of the said schedule (E.) shall give to the deputy for each of the places sharing in the election for such shire-town or borough, notice of the day fixed for such respective election, and shall before the day fixed for such respective election cause to be made, and to be delivered to every such deputy, a true copy of the register of voters for the borough of Monmouth, or for such shire-town or borough, as the case may be, and shall under his hand certify every such copy to be true; and the portreeve of the town of Swansea shall give notice of the day of election to the deputy for each of the towns of Loughor, Neath, Aberavon, and Kenfig, and shall in like manner cause to be made, and to be delivered to every such deputy, a true and certified copy of the register of voters for the borough composed of the said five towns; and the respective deputies for Newport and Usk, and for the respective places named in the first column of the said schedule (E.), as well as for the towns of Loughor, Neath, Aberavon, and Kenfig, shall respectively take and conduct the poll, and deliver or transmit the poll books, in the same manner as the deputies of the returning officers of the cities and boroughs in England are herein-before directed to do, and shall have the same powers and perform the same duties in every respect as are respectively conferred and imposed on the said deputies by this act: provided always, that where there shall be a mayor, portreeve, or other chief municipal officer in any town or place for which the returning officer or the portreeve of Swansea is required to appoint a deputy as aforesaid, such returning officer or the portreeve of Swansea, as the case may be, is hereby required to appoint such chief municipal officer for the time being to be such deputy for such town or place."

Appointment of
deputies in Wales.

All election laws
to remain in force,
except where

By sect. 75, "all laws, statutes, and usages now in force respecting the election of members to serve in parliament for that part of the united kingdom called England and Wales, shall be and remain, and are hereby de-

clared to be and remain, in full force, and shall apply to the election of (11.) *Proceedings before, and at Election for Boroughs.* members to serve in parliament for all the counties, ridings, parts, and divisions of counties, cities, and boroughs, hereby empowered to return members, as fully and effectually as if the same respectively had heretofore returned members, except so far as any of the said laws, statutes, or usages are repealed or altered by this act, or are inconsistent with the provisions thereof." superseded by this act.

By sect. 76, "if any sheriff, returning officer, barrister, overseer, or any person whatsoever shall wilfully contravene or disobey the provisions of this act or any of them, with respect to any matter or thing which such sheriff, returning officer, barrister, overseer, or other person is hereby required to do, he shall for such his offence be liable to be sued in an action of debt, in any of his majesty's courts of record at Westminster, for the penal sum of five hundred pounds, and the jury before whom such action shall be tried may find their verdict for the full sum of five hundred pounds, or for any less sum which the said jury shall think it just that he should pay for such his offence; and the defendant in such action, being convicted, shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same: provided always, that no such action shall be brought except by a person being an elector or claiming to be an elector, or a candidate, or a member actually returned, or other party aggrieved: provided also that the remedy hereby given against the returning officer shall not be construed to supersede any remedy or action against him according to the law now in force." Penalties on officers for breach of duty.

By sect. 77, "all writs to be issued for the election of members to serve in all future parliaments, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs, shall be and the same are hereby authorised to be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this act into effect." Writs, &c. to be made conformable to this act.

By sect. 78, "not to affect the election of members to serve in parliament for the universities of Oxford or Cambridge, or entitle any person to vote in the election of members to serve in parliament for the city of Oxford or town of Cambridge, in respect of the occupation of any chambers or premises in any of the colleges or halls of the universities of Oxford or Cambridge." Not to extend to Universities of Oxford and Cambridge.

By sect. 79, "wherever the words 'city or borough,' 'cities or boroughs,' may occur, those words shall be construed to include, except there be something in the subject or context manifestly repugnant to such construction, all towns corporate, cinque ports, districts, or places within England and Wales, which shall be entitled after this act shall have passed to return a member or members to serve in parliament, other than counties at large, and ridings, parts, and divisions of counties at large, and shall also include the town of Berwick-upon-Tweed; and the words 'returning officer' shall apply to every person or persons to whom, by virtue of his or their office, either under the present act, or under any former law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in parliament, by whatever name or title such person or persons may be called; and the words 'parish or township' shall extend to every parish, township, vill, hamlet, district, or place maintaining its own poor; and the words 'overseers of the poor' shall extend to all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed, and that all matters by this act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers, and that wherever any notice is by this act required to be given to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, addressed by a sufficient direction, to the overseers of the particular parish or township, or to any one of them either by their or his Christian name" Sense in which words in this act understood; "city or borough:" "Returning officer:" "Parish or township:" "Overseers of the poor:"

(12.) *General Matters before Election.*

"Justices of the peace for counties," &c.

Misnomer not to vitiate.

and surname, or by their or his name of office; and that all provisions in this act relative to any matters to be done by or with regard to justices of the peace for counties, or sessions of the peace for counties, or clerks of the peace for counties, or treasurers of counties, shall extend to the justices, sessions, clerks of the peace, and treasurers of the several ridings of Yorkshire and parts of Lincolnshire, and that the clerk of the peace for the time being for the borough of Newport in the Isle of Wight, shall for the purposes of this act, be deemed and taken to be the clerk of the peace for the county of the Isle of Wight, and that all the said respective justices, sessions, and clerks of the peace shall have power to do the several matters required by this act, as well within places of exclusive jurisdiction as without; and no misnomer or inaccurate description of any person or place named or described in any schedule to this act annexed, or in any list or register of voters, or in any notice required by this act, shall in anywise prevent or abridge the operation of this act with respect to such person or place, provided that such person or place shall be so designated in such schedule, list, register, or notice as to be commonly understood."

The three concluding clauses of the 2 Wil. IV. c. 45, merely provide for the mode of election, &c. in case the boundary act should not have passed prior to June 1832, and are therefore omitted.

XII. General Matters previous to Election.

The parliament is regularly to be summoned by the king's writ or letter, issued out of Chancery by advice of the Privy Council, at least forty days before it begins to sit. This is a provision of the Magna Charta of King John, "*faciemus summoneri &c. ad certum diem scilicet ad terminum quadraginta dierum ad minus et ad certum locum.*" (*Bla. Com.* vol. 1.)

The Lord Chancellor of Great Britain is by such writ commanded to cause proclamation to be made of his majesty's pleasure for the dissolution of the old, and assembling of a new parliament. He is also ordered to issue writs for the calling of such new parliament.

Course in which election writs forwarded by messenger of the great seal, and through the post office.

The 53 Geo. III. c. 89, *for the more regular Conveyance of Writs for the Election of Members to serve in Parliament*, enacts, s. 1, "that the messenger, or pursuivant of the great seal, shall, after the receipt of such writs, forthwith carry such of them as shall be directed to the sheriffs of London or Middlesex, to the respective officers of such sheriffs, and all such other writs to the general post-office in London, and there deliver them to the postmaster-general or his deputy, who shall give an acknowledgment in writing, expressing therein the time of delivery, and shall keep a duplicate of such acknowledgment, signed by the parties respectively to whom and by whom the same shall be so delivered; and that the postmaster or his deputy shall despatch all such writs free of postage, by the first post or mail after the receipt thereof, under covers directed to the proper officers to whom the said writs shall be respectively directed, accompanied with proper directions to the postmaster or deputy postmaster of the place, or nearest to the place, where such officers shall hold their office, requiring such postmaster or deputy forthwith to carry such writs respectively to such office, and to deliver them there to the officers to whom they shall be respectively directed, or their deputies, who are required to give to such postmaster or deputy a memorandum in writing, acknowledging the receipt of every such writ, and setting forth the day and the hour the same was delivered by such postmaster or deputy, which memorandum shall also be signed by such postmaster or deputy, who are required to transmit the same by the first or second post afterwards to the postmaster-general or his deputy, at the general post-office in London, who are required to make an entry thereof in a proper book for that purpose, and to file the memorandum along with the duplicate of the said acknowledgment, signed by the messenger, to the intent that the same

may be inspected or produced upon all proper occasions, by any person (12.) *General Matters before Election.* interested in such elections."

The statute, after directing (s. 2 & 3) that all persons to whom the writs for the election of members to parliament ought to be and are usually directed shall, within a month, send to the postmasters-general an account of the places where they shall hold their offices, and so from time to time, as often as such places shall be changed, and of the post town nearest to such offices; or in case any such office shall be in London, Westminster, or Southwark, or within five miles thereof, shall send such account to the messenger of the great seal; proceeds to enact, (s. 4 & 5) that after the death of the then messenger of the great seal, the allowances of *mileage* shall cease, except an allowance of two guineas on each writ for the election of a member on any vacancy, and of 50*l.* on the calling of a new parliament. And it further enacts, that whereas the messenger of the great seal and his deputy have, from time to time, received certain other fees for the conveyance and upon the delivery of these writs, such fees shall cease from the passing of the act; and that neither the messenger nor his deputy, nor any other person, shall receive or take any fee, reward, or gratuity whatsoever, for the conveyance or delivery of any such writ.

Persons to whom such writs are usually directed, must give an account of the places of their offices.

Mileage and other fees abolished, except two guineas on a vacancy, and 50*l.* on a new parliament.

And sect. 5. further proceeds to give to the then messenger an annual allowance for his life of 520*l.* in compensation for these fees.

Sect. 7. enacts, that every person concerned in the transmitting or delivery of any such writ as aforesaid, who shall wilfully neglect or delay to deliver or transmit any such writ, or accept any fee, or do any other matter or thing in violation of this act, shall be guilty of a misdemeanour, and may, upon conviction upon any indictment or information in his majesty's Court of King's Bench, be fined and imprisoned, at the discretion of the court, for such misdemeanour.

Persons acting in violation of the act, guilty of a misdemeanour.

Sect. 7. Offences committed in Scotland may be punished by a fine or imprisonment, as the judge before whom the offender shall be tried and convicted may direct.

Vacancy by demise of member, &c.]—If a member die, or resign his seat, or be called to the upper house during the session, the speaker, on receiving the order of the house, issues his writ for a new election.

But if during the recess, the speaker is empowered to issue such writ, by the 24 Geo. III. c. 26, on a certificate of the fact signed by any two members.

So if a member be disqualified by bankruptcy as hereafter mentioned (see "*Qualifications of Candidates*," *post*, 50), and that fact be duly certified by the commissioner under the fiat, the speaker is authorised to issue his warrant for a new election.

Notice of these facts are given in the *London Gazette* fourteen days previous to the issuing of the writ.

By the 7 & 8 Wil. III. c. 25, s. 1, when any new parliament shall be summoned, there shall be forty days between the teste and return of the writ; and, as well upon the calling of any new parliament as upon a vacancy in parliament time, the writ shall be delivered to the proper officer to whom the execution thereof doth belong, and to no other person. And every such officer, upon receipt of the writ, shall indorse thereon the day that he received it, and shall forthwith make out a precept, and within three days after the receipt of the writ, shall deliver such precept to the proper officer of the place where any member is wanting, and to no other person; and such officer, upon the back of such precept, shall indorse the day of his receipt thereof, in the presence of the party from whom he received the same, and shall forthwith cause public notice to be given of the time and place of election, and shall proceed to election thereupon within eight days next after his receipt of such precept, and give four days' notice at least of the day appointed for the election.

Time of proceeding to the election in counties.

Although the above statute mentions forty days, yet in practice fifty days intervene, in consequence of the twenty-second article of the Treaty of Union

(12.) *General Matters before Election.*

Notice of time and place of election to be given within certain hours.

with Scotland, under which Queen Anne was limited in the power of calling the first parliament after the union, to a period not less than fifty days from the date of the proclamation for assembling it. (*Words. Elec.* 146.)

By the 33 Geo. III. c. 64, s. 1, all notices of the time and place of any election shall be publicly given at the usual place or places, within the hours of eight in the forenoon and four in the afternoon from 25th October to 25th March, and of eight in the forenoon and six in the afternoon from 25th March to 25th October inclusive; and no notice shall be deemed or taken to be a good or valid notice for any purpose, or to any effect whatsoever, which shall not be made and published in the manner and within the time of the day aforesaid.

And by the 25 Geo. III. c. 84, s. 4, upon an election of a knight of the shire, the sheriff shall, within two days after the receipt of the writ, cause proclamation to be made at the place where the ensuing election ought by law to be holden of a special county court to be there holden for the purpose of such election only, on any day, Sunday excepted, not later from the day of making such proclamation than the sixteenth day, nor sooner than the tenth day; and shall proceed in such election, at such special county court, in the same manner as if the said election were to be held at a county court, or an adjournment thereof, according to the laws now in being.

Provided, that the usual county court for all other purposes, or any adjournment thereof, may be held and proceeded in by the sheriff, in the same manner, and at the same times and places, as if the writ for the election of a knight of the shire had not been received.

Deputies and clerks for taking the poll.

By 2 Wil. IV. c. 45, s. 65, in every election of any knight of the shire, the sheriff shall appoint deputies and clerks as he shall think fit for taking the poll, in the places where the poll shall be carried on.

Inspectors.

And by the 7 & 8 Wil. III. c. 25, the sheriffs shall admit one person for each candidate to be inspector of the clerks.

By 2 Wil. IV. c. 45, sect. 71, the deputies appointed by the sheriff are entitled to 2*l.* 2*s.* per day each, and every clerk to 1*l.* 1*s.* per day at the expense of the candidates.

Oath.

Though the returning officer is obliged to take the Bribery oath on opening the election, the same necessity does not apply to the deputies.

The following is the oath which, by the 25 Geo. III. c. 84, s. 7, is to be administered by the returning officer to the poll clerks:—

'I do swear that I will at this election of a member or members to serve in parliament for the county [or "now southern division of the county of Lancaster"] truly and indifferently take the poll, and set down the name of each freeholder and the place of his freehold, and for whom he shall poll; and to poll no freeholder who is not sworn or put to his affirmation, if legally required.'

This oath may be administered by the respective deputies of the returning officer at their several polling places.

Register of voters for booths.

By the 2 Wil. IV. c. 45, s. 72, the sheriff must provide a copy of the register of voters for each booth.

Check-book.

Sect. 9 of 18 Geo. II. c. 18, enacts that the sheriff shall allow a check-book for every poll-book, for each candidate; to be kept by their inspectors, at every place where the poll shall be taken.

In cities, boroughs, and towns corporate.

By the 7 & 8 Wil. III. c. 25, s. 1, with respect to cities, boroughs, and towns corporate, the sheriff or other officer who received the writ shall forthwith make out a precept to each borough, town corporate, or place within his jurisdiction where any members are to be elected, and within three days (and in the Cinque Ports within six days, 10 & 11 Wil. III. c. 7,) after receipt of the said writ, shall by himself or proper agent deliver the precept to the proper officer of such borough, town corporate, or place within his jurisdiction, to whom the execution of such precept doth belong, and to no other person whatsoever. And every such officer shall indorse the day of his receipt thereof in presence of the party of whom he received the same, and shall forthwith cause public notice to be given of the time and place of elec-

Cinque ports.

tion, and shall proceed to the election within eight days after the receipt of the precept, and give four days' notice at least of the day appointed for the election. (12.) *General Matters before Election.*

By the 19 Geo. II. c. 28, s. 6, 7, in a city or town, being a county of itself, the sheriff shall forthwith, on receipt of the writ, give public notice of the time and place of election, and proceed to election thereupon within eight days next after the receipt of the writ, and give three days' notice thereof at least, exclusive of the day of receipt of the writ and of the day of election: and the sheriff shall allow a check-book for every poll-book for each candidate, to be kept by their inspectors at the place of taking the poll. *In cities or towns being counties of themselves.*

And by stats. 34 Geo. III. c. 73, s. 1, and 42 Geo. III. c. 62, s. 1, after reciting that in many places it may be impracticable to receive the votes of all persons claiming and having a right to vote within the time limited as aforesaid, it is enacted, that when a poll shall be demanded, the returning officer shall, at the request in writing of any candidate under his hand, immediately after such request, and before he shall proceed further in taking the poll, appoint two or more persons to administer all the oaths required to be taken by voters, [except that by stat. 43 Geo. III. c. 74, the oath or affirmation required by stat. 2 Geo. II. c. 24, shall be taken by every person before he is admitted to poll in manner as prescribed by the said act, if demanded]; and to certify the names of electors who shall have taken such oaths, or subscribed and made such declaration or affirmation respectively. And every person so appointed shall immediately, and before he shall act, take the following oath, to be administered by the returning officer, or his deputy:— *Persons to be appointed to administer the oaths, &c.*

I do swear, that I will faithfully and impartially administer the oaths, and take the declarations and affirmations, now required by law to be taken or made by voters at elections for members to serve in parliament, to and from such persons as shall lawfully apply to me in that behalf, in order to qualify themselves to vote at this election; and that I will, on being thereunto requested, fairly and truly give to every such person, or any of them, who shall take such oaths, or make such declarations or affirmations respectively or any of them, before me, a certificate thereof; and that I will not give such certificate to any person before he shall have taken such oath or oaths, or make such declaration or declarations, affirmation or affirmations respectively, as shall be mentioned in such certificate, before me and in my presence. *Oaths to be taken by such persons.*

And by stat. 34 Geo. III. c. 73, s. 4, if at any time during the election it shall be found that the number of persons so appointed are insufficient for the purpose, and that the poll is delayed thereby, the returning officer, at the request in writing of any candidate then present, shall appoint more in like manner as aforesaid. *If a sufficient number have not been appointed.*

Sect. 2. Any person claiming to vote may apply to one of the persons so appointed to take the said oaths, or to make and subscribe such declaration or affirmation as aforesaid, and such person shall administer the same accordingly, and shall immediately sign and deliver a certificate thereof, which shall contain the name, addition, and place of abode of the person to whom the same shall be so delivered, and be in the following form:— *Electors to take the oaths, &c. before such persons, who shall give certificates thereof.*

A. B. [naming the person taking the oath] of [naming the place of such person's abode, and his addition or occupation,] has taken the oath [or "oaths"] of [naming the said oath or oaths, so administered] before me, this day of .

And in case of Quakers subscribing the said declaration of fidelity, or taking their affirmation of the effect of the said oath of abjuration, shall be in the form following: (that is to say)

A. B. [naming the person subscribing or affirming] of [naming the place of such person's abode, and his addition or occupation], has made and subscribed the declaration of fidelity, and affirmed the effect of the oath of abjuration [or if only one of those acts has been done, then naming such one act only], before me, this day of .

And such person, on producing such certificate to the returning officer or person taking the poll, shall be permitted to poll in like manner as if such oaths, &c. had been taken before the returning officer. *Production of certificate to entitle to vote.*

(13.) *Candidates' Qualification, &c.*

No person to vote without producing such certificate.

Proper places to be appointed for taking such oaths, &c.

Such places to be provided previous to the election, if required.

Expenses to be defrayed by the candidates.

Sect. 3. If any person shall offer to vote without producing such certificate, and being lawfully required to take the said oaths, and make such declaration as aforesaid, the same shall not be administered to him by the returning officer or person taking the poll, but he shall immediately withdraw, and take the same before one of the persons appointed as aforesaid.

Sect. 5. The returning officer shall provide a proper place for every such person so appointed, to which place the respective electors may have free access without interrupting the poll, and so as the persons so appointed may act separately without interfering with each other; and every such place shall be open and attended by the person appointed to act there, during all the time of the poll; and shall be kept open eight hours at least in every day, between eight in the morning and eight in the evening, until the final close of the poll; and such oaths, &c., shall be administered to as many of the electors, being ready, as conveniently can, not exceeding twelve at one time. And the returning officer shall deliver to each person so appointed a sufficient number of printed forms of the declaration to be made by Quakers, with blanks therein for the names of the persons offering to make and subscribe the same, to be inserted therein; and also a sufficient number of printed certificates in the like form, to be filled up and delivered to each elector so taking the said oaths or affirmation.

Sect. 6. In case any candidate shall, three days at the least before such election, give or cause to be given notice in writing to the returning officer to provide proper places for administering the said oaths, declarations, and affirmations, he shall prepare and provide such proper places, so as to be ready before and against the day of election; and in case there shall not be a sufficient number of fit and convenient places for that purpose at the town or place where such election shall be had, which the returning officer can conveniently and at a reasonable expense procure, then he shall cause such booths or temporary erections to be made in convenient places in that behalf as shall be necessary for the purpose; the expense of which, and of the said printed forms, and also the allowance to be made to the several persons appointed to administer the oaths, &c., as aforesaid (not exceeding one guinea a day each for every day's attendance) shall be paid by the candidates in equal proportions, to the returning officer, which, if not paid, may be recovered in the courts at Westminster.

The 73 sect. of the 2 Wil. IV. c. 45, gives to the deputies of the sheriff, or returning officer, the same power of administering the required oaths and affirmations, and of appointing commissioners for that purpose, as the sheriff and returning officers possess themselves.

XIII. *Qualification, &c. of Candidates.*

Infants.

By the 7 & 8 Wil. III. c. 25, s. 8, no person under the age of twenty-one years shall be capable of being elected.

Aliens.

Aliens, (4 *Inst.* 47,) denizens or naturalized aliens, (12 & 13 Wil. III. c. 2, s. 3,) are ineligible.

Persons attainted, &c.

Persons attainted of treason or felony are ineligible. (4 *Inst.* 47.)
So are outlaws in criminal proceedings. (2 *Hats.* 37.)

Absence.

Absence from England is no ground of ineligibility. (*Simeon*, 51.)

Clergymen disabled.

By the 41 Geo. III. (U. K.) c. 63, s. 1, 2, no person ordained a priest or deacon, or being a minister of the church of Scotland, shall be capable of being elected a member of the House of Commons; but the election of such person shall be void.

Sect. 2. If any person, after his election, shall be ordained a priest or deacon, or such minister as aforesaid, he shall vacate his seat.

Penalty on sitting or voting.

Sect. 3. If such person shall, in either of the two cases aforesaid, presume to sit or vote as a member of such house, he shall forfeit for each day he shall so sit or vote 500*l.* to any person who shall sue for the same in any of

his majesty's courts at Westminster; and such penalty shall be recovered, with full costs, by action of debt, bill, plaint, or information; and every person against whom such forfeiture shall be recovered, shall be, from thenceforth, incapable of taking, holding, or enjoying any benefice, living, or promotion ecclesiastical, or any office of honour or profit under the crown. (13.) *Candidates' Qualification, &c.*

Sect. 4. And proof of the celebration of divine service, according to the rites of the church of England or Scotland, in any church or chapel, consecrated, or set apart for public worship, shall be deemed *prima facie* evidence of the fact of such person having been ordained a priest, or deacon, or minister of the church of Scotland, within the meaning of this act. *Proof of vocation.*

Sect. 3. But no person shall be liable to any such forfeiture, unless the prosecution be commenced within twelve calendar months after such forfeiture shall be incurred. *Limitation of action.*

The judges of England are ineligible. (4 *Inst.* 47.) *Judges.*

By the 30 Chas. II. s. 2, c. 1, no papist could sit in either House of Parliament. But now by the 10 Geo. IV. c. 7, they may do so on taking certain oaths therein prescribed. See *post*, "*Popery*." *Papists.*

Sir William Blackstone says, no person concerned in the management of any duties or taxes created since 1692, except the commissioners of the treasury, nor any of the officers following (*viz.* commissioners of prizes, transport, sick and wounded, wine licences, navy, and victualling; secretaries or receivers of prizes; comptrollers of the army accounts; agents for regiments; governors of plantations and their deputies; officers of Minorca and Gibraltar; officers of the excise and customs; clerks or deputies in the several offices of the treasury, exchequer, navy, victualling, admiralty, pay of the army or navy, secretaries of state, salts, stamps, appeals, wine licences, hackney coaches, hawkers and pedlers), nor any persons that hold any new office under the crown created since 1705, are capable of being elected or sitting as members. (1 *Blac. Com.* 175.) *Placemen.*

By the 6 Anne, c. 7, s. 26, if any person, being chosen a member of the House of Commons, shall accept of any office of profit from the crown, during such time as he shall continue a member, his election shall be, and is hereby declared to be void, and a new writ shall issue for a new election, as if such person so accepting was naturally dead. Provided, nevertheless, that such person shall be capable of being again elected, as if his place had not become void, as aforesaid. *Accepting of office of profit while a member, election void, but may be again elected.*

By the 22 Geo. III. c. 45, s. 1, all persons holding contracts made with the commissioners of the treasury, navy, victualling office, or board of ordnance, for or on account of the public service, shall, during the time they shall hold such contracts, be incapable of being elected, or of sitting or voting in the House of Commons. *Contractors.*

An army clothier, who contracts with a colonel of a regiment, or his agents, to furnish clothing for such regiment, is not within stat. 22 Geo. III. c. 45, which renders all persons holding contracts for the public service incapable of being elected or sitting in the House of Commons. (*Thomson, q. t. v. Pearse, Esq. 3 Moore, C. P.* 260.)

By the 6 Anne, c. 7, s. 25, no person having a pension from the crown during pleasure, shall be capable of being elected. *Pensioners.*

Neither shall any person having a pension from the crown for any term of years, either in his own name, or in the name of any other in trust for him, be capable of being elected.

But a pension received by the wife does not disqualify the husband. (*Reading, Corb. Dan.* 114.)

By the 41 Geo. III. (U. K.) c. 52, s. 4, 5, persons who shall hold any of the following places in Ireland, shall be disabled to sit in the Commons House of the parliament of the United Kingdom, under similar penalties as incurred under former British or Irish acts, or, if disabled by this act, to forfeit 500*l.* per diem: namely, commissioners of customs, excise, or stamps, or persons any ways concerned in farming, collecting or managing any part of the revenue (except the commissioners of the treasury and their secre- *Irish placemen, &c.*

(13.) *Candidates' Qualifications, &c.*

tary); commissioners of appeals or of accounts, army agents, contractors (except members of trading companies, as such); clerks of the treasury (except the secretary), or of the auditor's letters, or chancellor of the exchequer (except the chancellor's secretary), or of the commissioners of the stamps, or of appeals; and all persons who, in any future parliament, shall hold new places under the lord-lieutenant.

Sect. 8. Provided, that nothing herein shall extend to offices held for life, or during good behaviour; except such as concern the revenue.

Sect. 2. But if any person, chosen a member, shall accept any office of profit from the crown, or by the appointment, or subject to the approbation of the lord-lieutenant, his seat shall become vacant; provided, nevertheless, that (if there be no other incapacity) he shall be again eligible.

Police magistrates, &c.

Police magistrates, and receivers under the police, are ineligible, 3 Will. IV. c. 19. s. 19.

Resigning office.

An office rendering the holder ineligible, if resigned previous to the election, though the resignation be not formally accepted, does not operate as a disqualification. (2 Dougl. 367.)

Qualification by estate.

By the 9 Anne, c. 5, s. 1, no person shall be capable to sit or vote in the House of Commons for a county, unless he hath an estate, freehold or copyhold, for his life, or some greater estate, of the clear yearly value of 600*l.*; nor for a city or borough, unless he hath a like estate of 300*l.*

Sect. 5. And any other candidate or two electors may, upon reasonable request to him made (at the time of the election, or before the day prefixed for the meeting of parliament), require him to take the following oath:

Oath of qualification.

I, A. B., do swear, that I truly and bonâ fide have such an estate in law or equity, to and for my own use and benefit, of or in lands, tenements, or hereditaments, over and above what will satisfy and clear all incumbrances that may affect the same, of the annual value of above reprises, as doth qualify me to be elected and returned to serve as a member for the of according to the tenor and true meaning of the act of parliament in that behalf; and that my said lands, tenements, or hereditaments are lying or being within the parish, township, or precinct of, or in the several parishes, townships, or precincts of in the county of , or in the several counties of (as the case shall be).

(A refusal to take this oath voids the election, 9 Anne, c. 5, s. 7.)

The same to be administered by the returning officer, or two justices; who shall, in three months, certify the same into the chancery or king's bench, under a penalty of 100*l.*; half to the king, and half to the informer.

Exceptions.

Sect. 2. Provided that nothing in the act shall extend to make the eldest son or heir apparent of any peer or lord of parliament, or of any person qualified by this act to serve as knight of a shire, incapable of being elected and returned, and sitting and voting as a member of the House of Commons in any parliament.

Qualification to be delivered in at the table of the House of Commons.

By the 33 Geo. II. c. 20, every member, before he shall vote in the House of Commons, or sit there during any debate, shall, after the speaker is chosen, deliver in at the table in the middle of the house, whilst the house is there sitting, with the speaker in the chair, an account signed by such member, containing the name of the place where his qualification lies, declaring the same to be of the annual value of 600*l.* above reprises, if a knight of a shire; and of 300*l.* if a citizen, burgess, or baron of a cinque port; and shall also at the same time take and subscribe the oath following:—

Oath to be there taken.

I, A. B., do swear, that I truly and bonâ fide have such an estate in law or equity, and of such value, to and for my own use and benefit, of or in lands, tenements, or hereditaments, over and above what will satisfy and clear all incumbrances that may affect the same, as doth qualify me to be elected and returned to serve as a member for the place I am returned for, according to the tenor and true meaning of the acts of parliament in that behalf; and that such lands, tenements, or hereditaments, do lie as described in the paper or account signed by me, and now delivered to the clerk of the House of Commons. So help me God.

But this also shall not extend to the eldest son or heir apparent of a peer, (14.) *Returning Officers, Expenses, &c.*
or of any person qualified to serve as a knight of a shire, or to the members of either of the universities.

By the 41 Geo. III. (U. K.) c. 101, s. 23, the 33 Geo. II. c. 20, is extended to members elected to the united parliament for England, Wales, Berwick-upon-Tweed, or Ireland. And the qualifications may be situate in either of those respective parts of the United Kingdom.

Exceptions.

By the 59 Geo. III. c. 37, after reciting the 9 Anne, c. 5, 33 Geo. II. c. 20, and 41 Geo. III. c. 101, it is enacted, that it shall be sufficient that such lands, tenements, or hereditaments, whereby any person who shall be elected a member of the House of Commons in the United Kingdom, shall make out his qualification in manner by the said acts, shall lie either within England, Wales, Berwick-upon-Tweed, Scotland, or Ireland.

By the 25 Geo. III. c. 52, s. 25, the commissioners for auditing the public accounts shall be incapable of sitting in the House of Commons.

Commissioners of accounts.

By the 52 Geo. III. c. 144, s. 1, wherever a commission of bankruptcy shall be awarded against any member of the House of Commons, and he shall be found and declared a bankrupt under the same, he is incapacitated for the next twelve calendar months from sitting or voting in the house, unless within that period the commission shall be superseded, or the creditors proving their debts shall be paid or satisfied the full amount of their debts under the commission: the same clause having a proviso, that such debts (if any) as shall be disputed by the bankrupt, (if he shall within the same time, enter into security according to the directions of the act, to pay such money as shall be recovered against him in law or equity, together with the costs,) shall be considered, for the purposes of the act, as paid or satisfied.

Member becoming a bankrupt.

By sect. 2, if the commission shall not within twelve calendar months be superseded, nor the debts so satisfied, then the commissioners are required, immediately after the expiration of twelve calendar months from the issuing of the commission, to certify the same to the speaker, and thereupon the election of such member is to be void, and the speaker is authorized and required, during any recess, forthwith, after receiving such certificate, to cause notice thereof to be inserted in the London Gazette, and then, upon the expiration of fourteen days, to issue his warrant to the clerk of the crown to make out a new writ in the room of such member; but nothing herein shall empower the speaker to issue such warrant, unless such certificate shall have been delivered to him so long before the next meeting of the house for the despatch of business, as that the writ may be issued before that time.

XIV. Returning Officers—Return—and Expenses of Election.

By the 2 Wil. IV. c. 45, s. 11, "the persons respectively described in the said schedules (C.) and (D.) shall be the returning officers at all elections of a member or members to serve in parliament for the boroughs in conjunction with which such persons are respectively mentioned in the said schedules (C.) and (D.); and for those boroughs in the said schedules for which no persons are mentioned in such schedules as returning officers, the sheriff for the time being of the county in which such boroughs are respectively situate shall, within two months after the passing of this act, and in every succeeding respective year in the month of March, by writing under his hand, to be delivered to the clerk of the peace of the county within one week, and to be by such clerk of the peace filed and preserved with the records of his office, nominate and appoint for each of such boroughs a fit person, being resident therein, to be, and such person so nominated and appointed shall accordingly be, the returning officer for each of such boroughs respectively until the nomination to be made in the succeeding March; and in the event of the death of any such person, or of his becoming incapable to act by reason of sickness

Description of the returning officers for the new boroughs.

(14.) *Returning Officers—Expenses—Return.*

Who disqualified.

Who exempt.

Proviso.

Custody of poll books.
Boroughs.

Declaration of poll.

Counties.

Indenture.

Return not to be contrary to the last determination.

Double return.

Where no member is returned.

or other sufficient impediment, the sheriff for the time being shall on notice thereof forthwith nominate and appoint in his stead a fit person, being so resident as aforesaid, to be, and such person so nominated and appointed shall accordingly be, the returning officer for such borough for the remainder of the then current year; and no person having been so nominated and appointed as returning officer for any borough, shall after the expiration of his office be compellable at any time thereafter to serve again in the said office for the same borough: provided always, that no person being in holy orders, nor any churchwarden or overseer of the poor within any such borough, shall be nominated or appointed as such returning officer for the same; and that no person nominated and appointed as returning officer for any borough now sending or hereafter to send members to parliament shall be appointed a churchwarden or overseer of the poor therein during the time for which he shall be such returning officer: provided also, that no person qualified to be elected to serve as a member in parliament shall be compellable to serve as returning officer for any borough for which he shall have been nominated and appointed by the sheriff as aforesaid, if within one week after he shall have received notice of his nomination and appointment as returning officer, he shall make oath of such qualification before any justice of the peace, and shall forthwith notify the same to the sheriff: provided also, that in case his majesty shall be pleased to grant his royal charter of incorporation to any of the boroughs named in the said schedules (C.) and (D.) which are not now incorporated, and shall by such charter give power to elect a mayor or other chief municipal officer for any such borough, then and in every such case such mayor or other chief municipal officer for the time being shall be the only returning officer for such borough; and the provisions herein-before contained with regard to the nomination and appointment of a returning officer for such borough shall thenceforth cease and determine."

At the close of the poll in borough elections, after receiving the books, as directed by the 68 sect. of the Reform Act, the returning officer seals them up, and keeps them unopened till the following day, when he publicly breaks the seal, calculates the numbers, and declares the state of the poll. This must not be later than two o'clock P. M.

The returning officer may, however, if he choose, declare the poll, and proclaim the members immediately after the close.

The 65 sect. of the same act directs the delivery of the poll books in county elections to the sheriff or under-sheriff, who retains them unopened till the re-opening of the court on the next day but one, when he also publicly breaks the seals, casts up the votes, declares the poll, and proclaims the members.

This must also take place before two o'clock P. M.

By the 7 Hen. IV. c. 15, after the election the names of the persons chosen shall be written in an indenture under the seals of the electors, and tacked to the writ.

By the 7 & 8 Wil. III. c. 7. s. 1, 2, if any officer shall return any member contrary to the last determination in the House of Commons, the same shall be adjudged a false return; and the party duly elected may recover double damages with full costs.

Sect. 3. And the like remedy shall be against an officer making a double return. (See 1 *Peckw.* 16.)

If upon any writ issued no return shall be made on or before the day on which such writ is returnable, or if a writ shall have been issued during any session or prorogation of parliament, and no return shall be made within fifty-two days after the day on which such writ bears date, or if the return made in either case shall not be a return of a member according to the requisition thereof, but contain special matter only concerning such election; any person having or claiming a right to vote, or claiming a right to be returned, who shall think himself aggrieved, may petition the House of Commons concerning the same; and upon such petition being presented, a day and hour shall be appointed for taking the same into consideration, and

notice thereof in writing shall be forthwith given by the speaker to the petitioners, and to the officer by whom such return should have been made, accompanied with an order to attend the house at the time appointed, by themselves, or their counsel, or agents; and a select committee shall be appointed according as is directed by the 10 & 11 Geo. III., who shall proceed therein as by the said acts are directed; and all rules and regulations in either of the said acts contained shall extend to this act. (25 Geo. III. c. 84, s. 10.)

Sect. 8. Every person who, in taking any oath herein-before appointed, shall thereby commit wilful perjury, or unlawfully and corruptly procure or suborn any other person to take any such oath, whereby he shall commit such wilful perjury, and shall be thereof convicted, shall incur such penalties as are inflicted by the 5 Eliz. c. 9, and 26 Geo. II. c. 25, s. 8. Persons committing perjury.

And by the 7 & 8 Wil. III. c. 25, s. 6, every such sheriff or returning officer shall deliver copies of the poll to any person desiring the same, paying a reasonable charge for writing thereof. Copies of the poll.

Finally, by the 10 Anne, c. 23, s. 5, he shall, within twenty days after the election, deliver over upon oath (to be administered by the two next justices) the poll-books to the clerk of the peace, without alteration, to be kept amongst the records of the sessions. See also sect. 54, 2 Wil. IV. c. 45.

The poll books of borough elections remain in the custody of the returning officers and successors. See sect. 54, ib. Custody of poll books.

XV. Freedom of Election.

By the 3 Edw. I. c. 5, because elections ought to be free, the king commandeth, upon great forfeiture, that no man, by force of arms, nor by malice or menacing, shall disturb any to make free election. Elections to be free.

By the declaration of rights, 1 Wil. III. sess. 2, c. 2, it is insisted, that elections of members of parliament ought to be free; and that freedom of speech, and debates of proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

And by the 8 Geo. II. c. 30, on notice of an election, the secretary at war shall send orders for the removal of soldiers one day at least before the election, and not to return till after the poll shall be closed. But this is not to extend to the guards, nor to any castle or fortified place, where a garrison is usually kept; nor to any officer or soldier having a right to vote at such election. (See 1 *Peckw.* 89.) Soldiers to be removed.

By the 9 Anne, c. 10, s. 44, no officer of the post-office shall, by word, message, or writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote in any election.— Officers of the post-office, &c. not to interfere.

By the 5 Wil. III. c. 20, and 9 Anne, c. 11, s. 4, there is the like provision with respect to the officers of excise.—And the like by the 12 & 13 Wil. III. c. 10, with respect to the officers of the customs.

If riots are carried to a great extent, accompanied with personal intimidation, and exclude the possibility of a fair exercise of the franchise, they will avoid the election. (*Orme*, 18; 1 *Peckw.* 77.) Riots.

By the 49 Geo. III. c. 118, after reciting, that the giving or promising to give money, &c. in order to procure the return of any member to serve in parliament, if not given to or for the use of some person having a right or claiming to have a right to act as returning officer, or to vote at such election, is not bribery within the meaning of the 2 Geo. II. c. 24, it is enacted, "that if any person shall, either by himself, or by any other person, for or on his behalf, give or cause to be given, directly or indirectly, or promise or agree to give any sum of money, gift, or reward, to any person, upon any engagement, contract, or agreement, that such person to whom, to whose use, or on whose behalf such gift or promise shall be made, shall, by himself, or by any other person whatsoever at his solicitation or command, procure or endeavour to procure the return of any person to serve in parliament, every person so hav-

Penalty on persons giving or receiving money to procure the election of a member of parliament, though such money, &c. be not given to voters.

(15.) *Freedom of Election.*

ing given or promised to give, if not returned himself in parliament for such county, &c., shall, for every such gift or promise, forfeit 1000*l.*, to be recovered as herein-after provided, with respect to the sum of 500*l.*; and every such person so returned, and so having given or promised, or knowing of and consenting to such gifts or promises, upon any such engagement, &c., shall be thereby disabled to serve in that parliament for such county, &c.; and such person shall be deemed to be no member of parliament, as if never returned or elected a member; and any person who shall receive or accept of, by himself, or by any other in trust for, or to the use or on the behalf of him, any such sum of money, gift, or reward, or any such promise upon any such engagement, &c., shall forfeit to his majesty the value and amount of such sum of money, &c., over the sum of 500*l.*, which said 500*l.* he shall forfeit to any person who shall sue for the same, to be recovered, with costs of suit, by action of debt, &c. in any of his majesty's courts at Westminster, if the offence be in England or Wales, and at Dublin, if committed in Ireland."

Sect. 2. Provides that the act shall not extend to any money paid or agreed to be paid to or by any person for any legal expense *bonâ fide* incurred at or concerning any election.

Giving any office, &c. for election purposes.

By sect. 3, If any person shall by himself, or by any other person on his behalf, give or procure to be given, any office, place, or employment to any person upon any express contract or agreement that such person, to whom or to whose use or on whose behalf such gift or promise shall be made, shall by himself, or by any other person at his solicitation or command, procure or endeavour to procure the return of any person to serve in parliament for any county, &c. (as in s. 1,) such person so returned, and so having given or procured, or so having promised to give or procure, or knowing of and consenting to such gift or promise upon any such express contract or agreement, shall be disabled and incapacitated, &c. (as in s. 1); and any person who shall receive or accept of, by himself, or by any other person in trust for or to the use or on the behalf of such persons, any such office, &c., upon such express contract or agreement, shall forfeit such office, &c., and be incapacitated for holding the same, and shall forfeit 500*l.*, which said 500*l.* shall be recovered as is herein-before enacted; and any person holding any office under his majesty, who shall give such office, &c., upon any such express contract, &c., that the person to whom, &c., such office, &c., shall have been given, shall so procure, or endeavour to procure, the return of any person to serve in parliament shall forfeit 1,000*l.*, to be recovered as is herein-before provided.

Limitation of actions.

By sect. 4, actions upon this statute must be commenced within two years next after the offence committed, excepting where the party absconds.

As to bribery at elections, see *ante*, page 18.

Monies or personal property belonging to municipal corporations not to be applied in or towards parliamentary elections;

By the 2 & 3 Wil. IV. c. 69, after reciting that "the property belonging to cities, towns, cinque ports, and boroughs corporate in the United Kingdom of Great Britain and Ireland may be wasted and dissipated by the application thereof in or towards the expenses attendant upon parliamentary elections, to the great detriment of such municipal corporations; and it is expedient to make provision to prevent such detriment, and also to ensure the freedom of election by restraining the application of corporate property as before mentioned: it is therefore enacted, that from and after the passing of this act it shall not be lawful for any municipal corporation as aforesaid, or any court, guild, council, or assembly constituting or composed of the ruling or governing part or class thereof, or any corporate officer, trustee, or other person acting on behalf of such corporation or any part thereof, to pay, transfer, give, bestow, or apply any sum or sums of money, or any parliamentary or other stocks, funds, or securities for money, or any personal chattel, belonging to or vested in the same corporation or any part thereof, or in any individual in trust for or for the benefit of such corporation, in satisfaction, compensation, or discharge of any expenses incident to or incurred or occasioned by the election of a member to serve in the Commons House of Parliament, or by any person offering himself as a candidate at or previous to a parliamentary election; and that all bonds, covenants, recognizances, or judgments given, executed, or suffered by any such corporation, or any

and all bonds, &c. for securing the same void.

part or class thereof, or by any corporate officer, trustee, or other person in the name or on the behalf of such corporation, for the purpose of securing the payment of such expenses, shall be utterly void." (15.) *Freedom of Election.*

By sect. 2, "any gifts, transfers, payments, or gratuities, bonds, covenants, recognizances, or judgments, made, paid, given, executed, or suffered by any corporation, part of a corporation, or corporate officer, or trustee, or other person as aforesaid, for the purpose of inducing or influencing any person or persons to labour in parliamentary elections at a future time, or to pay, satisfy, or incur any such expenses as aforesaid at a future time, shall be deemed to be payments, transfers, applications, and securities forbidden and declared void by this act, although the same may be ostensibly and colourably made, paid, given, executed, or suffered for any other cause or consideration."

Payments to any person to exert himself in elections at a future time to be within this act.

By sect. 3, "all conveyances, mortgages, leases, or other assurances or dispositions of lands, tenements, or hereditaments, belonging to or vested in or held in trust for any municipal corporation, made or executed for the purpose of securing, satisfying, or compensating any expenses, debts, payments, or disbursements, liabilities or engagements, incurred or to be incurred by the same corporation, or any part or class thereof, or any member, officer, or trustee thereof, or by any other person on behalf of such corporation, contrary to the true intent and meaning of this act, and all estates, charges, and incumbrances thereby created, shall be utterly void."

All dispositions of real property, for the purpose of satisfying or securing any expenses hereby prohibited, to be void.

By sect. 4, "all votes, orders, or resolutions, acts, bye-laws, or other proceedings made, passed, or adopted by any municipal corporation, or any part or class thereof, or any member or members thereof, for the purpose of directing or authorizing, or pretending to direct or authorize, any payment, matter, or thing forbidden by this act, or for the purpose of evading the provisions hereby enacted, shall be utterly void."

All votes and other proceedings contrary to this act to be void.

And by sect. 5, "any corporate officer, trustee, or other person who shall make or concur in making any payment, transfer, or application of corporation money, stocks, funds, or securities, or personal chattel, as aforesaid, contrary to the true intent and meaning of this act, shall be deemed and taken to have made the same in his own wrong, and that he shall be individually liable to repay, satisfy, and make good the amount or value thereof to the same corporation, notwithstanding any release or pretended indemnity which may be given to him in the name of the same corporation or any part or class thereof, or by any person or persons on behalf of such corporation."

Corporate officers or others making any payment contrary to this act, to make good amount so misapplied.

Sect. 6, "in order to frustrate any fraudulent connivance or concealment, it shall and may be lawful for any two or more freemen, burgesses, or corporators of such municipal corporation to commence, bring, and prosecute any action or suit, at law or in equity, in the name of the same corporation, against any officer, trustee, or other person who may have made such illegal payment, transfer, or application as above mentioned, in the same manner, to all intents and purposes, as if they, their executors and administrators, were jointly and severally appointed the irrevocable attorneys of such corporation for that purpose: provided nevertheless, that before the defendant in such action or suit shall be required to plead or answer, the plaintiffs shall give reasonable security for payment of costs, in case any shall become due from them, by the event of the action or suit, in such manner as the court in which the same shall be brought may direct; such costs to be taxed as between attorney and client."

Corporators empowered to bring actions or suits in the name of the corporation.

And by sect. 7, "any member of a municipal corporation who shall authorize, direct, or command any payment, transfer, or application hereby forbidden, or who shall assent to or concur or participate in any affirmative vote, order, or proceeding relating thereto, or shall sign or seal in his individual capacity or affix the corporate seal to any deed or instrument hereby declared void, shall be guilty of a misdemeanour, and, being thereof legally convicted in his majesty's court of King's Bench at Westminster, shall, in addition to such punishment as the court may award, be for ever disabled to take, hold, or exercise any office in the same corporation."

Members of corporations offending against this act guilty of a misdemeanour.

(16.) *Petition
against Return.*XVI. *Petition against Return.*

Petitions may be presented against the return of members by any elector on the ground of an undue election or return, and the correctness of the register may be disputed before a committee of the House of Commons. The time for presenting such petitions is regulated by an order of the house at the opening of the session; and by the 9 Geo. IV. c. 22, s. 14, it will be seen that a list of such votes as it is intended to object to must be delivered to the clerk of the House of Commons ten days before the day appointed for the consideration of the petition. Before the house will proceed upon the petition, the petitioner must enter into certain recognizances required by that statute, with sureties in a heavy penal sum for the payment of all costs, expenses, and fees, which shall become due to any witness summoned on behalf of the subscriber, or to the officers of the house, &c. If this be neglected, and the time for the purpose be not enlarged, the order for hearing the petition will be discharged.

On a petition to the House of Commons, complaining of an undue election, forty-nine members of the House of Commons shall be chosen by ballot, out of whom each party shall alternately strike out one, till they be reduced to the number thirteen; who, together with two more, of whom each party shall nominate one, shall be a select committee for determining such controverted elections. The 10 Geo. III. c. 16; 11 Geo. III. c. 42; both made perpetual by the 14 Geo. III. c. 15; and since amended by the 25 Geo. III. c. 84; 28 Geo. III. c. 52; 32 Geo. III. c. 1; 36 Geo. III. c. 59; 42 Geo. III. c. 84; 47 Geo. III. c. 1; 53 Geo. III. c. 71; 9 Geo. IV. c. 22; and the principal act is now the 9 Geo. IV. c. 22. See 18 Geo. II. c. 18, as to certain expenses.

The petition must set forth the specific grounds of objection, and its allegations must be supported by proof.

In the Bedford case (1 *Perry & Kn.* 122), the committee decided that they could not inquire into the validity of a vote, which had not been objected to before the revising barrister.

In the Ripon case, tried in the same session (1 *Perry & Kn.* 205), the committee came to a contrary decision.

The Bedford case, however, has been supported by subsequent resolutions; and it would seem, that to entitle a petitioner to oppose a vote before the committee, he must show the proper opposition to have been offered before the revising barrister.

The 39 sect. 9 Geo. IV. c. 22, empowers the committee to send for and examine persons, papers, and records, and on disobedience to the summons or refusal to give evidence, the parties may be committed to the custody of the serjeant-at-arms.

The witnesses have a summary remedy for the recovery of their expenses, and the certificate of the speaker is sufficient proof of their having been summoned, and they are not compellable to give their evidence till they have had their expenses paid or tendered.

In the Dublin case (1835), the committee granted a commission for the examination of witnesses in Ireland.

After hearing the evidence in support of, and opposition to the petition, the committee make their report to the house, and the return is avoided or confirmed according to their report.

Frivolous Petitions.]—The speaker may grant his certificate of costs incurred by a member in opposing a frivolous and vexatious petition against one of several petitioners. (*Gurney v. Gordon*, 9 *Bingh.* 37, and *S.C.* 2 *Crom. & J.* 614.)

Returning Officer.]—If in a petition against the return of a member the returning officer be charged with corruption and bribery, and attend before the committee by counsel, agent, and witnesses, and the petition be declared frivolous and vexatious, and the speaker grant him his order and certificate pursuant to 28 Geo. III. c. 52, ascertaining his expenses, he may recover them by action in debt. (*Trueman v. Lambert*, 4 *M. & Sel.* 234.)

Witnesses under recognizance to appear before a committee need not (17.) *Privilege* attend till the last moment, nor wait to hear the decision. (*Ex parte of Parliament. Williams, 8 Price, 3.*)

XVII. Privilege of Parliament.

In the reign of Henry VI., when the House of Lords propounded to Sir John Fortescue, chief-justice, a question concerning the privileges, he answered in the name of his brethren, that they "ought not to make answer to that question, for it hath not been used aforetime that the justices should in anywise determine the privileges of the high court of parliament. For it is so high and mighty in its nature that it may make law, and that which is law, it may make no law: and the determination and knowledge of that privilege belongs to the lords of parliament, and not to the justices." (*Bla. Com. vol. 1.*) In general.

At the opening of parliament the speaker demands of the king freedom of speech. Freedom of speech.

By the common law, a member of parliament shall have the privilege of parliament, not only for himself and his servants, to be freed from arrest, subpœna, citation, and the like, but also for his horses and goods to be free from distresses: but for treason, felony, and breach of the peace, there can be no privilege. (*4 Inst. 24, 25.*) From arrest and distresses.

These privileges were, however, greatly restricted by the 12 Wil. III. c. 3; 2 & 3 Ann. c. 18, and 11 Geo. II. c. 24; and now, so far as they respect their domestics' lands and goods, are absolutely taken away by 10 Geo. III. c. 50.

Members of the House of Commons are privileged against arrest, not only during the continuance and sitting of parliament, but for a convenient time after every prorogation and before the next appointed meeting. (*1 Dyer, 50; 2 St. 985; Fortescue, 165.*)

It is said that the privilege *eundo et redeundo* continues for forty days (*2 Lev. 72*), which seems, however, to have been doubted, (*1 Sid. 29*). The House of Commons, indeed, have always avoided deciding the limits of their privilege in this respect, and the question as to the extent of it can be determined by them only. In 1586, when Mr. Martin, a member, was arrested twenty days before the meeting of parliament, the house ordered him to be discharged; but when the question was put, whether they should limit a time for the continuance of this privilege, the proposition was negatived.

It has been held, that an unprivileged person in custody under an execution, being elected a member of parliament, is entitled to his discharge on motion. (*Phillips v. Wellesley, 1 Dow. P. C. 14.*)

Rex v. Earl Ferrers, 1 Burr. 631. A writ of *habeas corpus* having been granted and served upon the said earl, returnable immediately, to bring up the body of his countess, who was sister to Sir William Meredith, (that she might have an opportunity to lay her case before the court, and swear the peace, if she should think proper, thereby to receive the protection of the court against the said earl,) and the earl having neglected to return the said writ, the counsel for Sir William Meredith, on behalf of his sister, intended to have moved for an attachment against the earl for this his disobedience. But some doubts and difficulties having been started by members of both houses concerning the privilege of peerage, and whether the Court of King's Bench could issue an attachment against a peer during the sitting of parliament, and execute it upon him, only for a contempt to their court, Sir William judged it prudent to petition the House of Lords, for their leave to proceed against the earl, and accordingly (by the hands of the Earl of Westmoreland) delivered the petition, stating the facts. Lord Delaware opposed it; and said it was too summary and hasty a method of determining upon their privileges; and proposed referring the matter to a committee, and summoning Lord Ferrers to answer it in his place: and to obviate the

(17.) *Privilege of Parliament.* objections which might be made to this method, on account of the delay, he offered some schemes for the immediate safety of the countess. But Lord Mansfield answered him, and spoke in support of the jurisdiction of his court, and the unreasonableness, injustice, and inconvenience of allowing such a privilege in criminal cases and breaches of the peace. The Duke of Argyle spoke to the like effect, and expressed a surprise that there should be any doubt about it; the reason of the thing being so clear and plain. Lastly, the Earl of Hardwicke spoke strongly and particularly in support of the same doctrine, and adduced many instances and precedents in proof of his position; and concluded with proposing that, to put an end to all doubts about it for the future, the lords should come to a resolution; and accordingly they did come to the following resolution or declaration, and ordered it to be entered on their journal, viz.:—"7th February, 1757. It is ordered and declared that no peer or lord of parliament hath privilege against being compelled by process of the courts of Westminster Hall to pay obedience to a writ of *habeas corpus* directed to him."

The Habeas Corpus Act is a remedial law; and the judges of every court are bound to enforce its provisions according to their spirit, in such a manner as most effectually to relieve the subject from illegal imprisonment. (*Per Ld. Alvanley, C. J., Huntley v. Luscombe, 2 Bos. & Pul. 535.*)

But members of either house are privileged from an attachment for non-payment of money. (*Walker v. Earl of Grosvenor, 7 T. R. 171, Catmur v. Sir E. Knatchbull, id. 448.*)

May be sued, but not arrested.

By the 12 & 13 Wil. III. c. 3, and 11 Geo. II. c. 24, any person may bring an action against a peer or member of parliament, or any of their menial or other servants, immediately after the dissolution or prorogation, until a new parliament meet, or the same be re-assembled; and from any adjournment of both houses, for above fourteen days, until both houses shall meet or re-assemble; and the courts, during such time, may proceed to give judgment and award execution.—But this shall not extend to subject the person to be arrested during the time of privilege; but the plaintiff may prosecute at law by summons and distress infinite, or by original bill and summons, attachment, and distress infinite, until the defendant shall enter a common appearance, or file common bail. And in equity, the plaintiff may proceed by letter or subpœna; and after service thereof may, for want of appearance or answer, or non-performance of an order or decree, or for breach thereof, sequester the real and personal estate of the party, but not arrest his body.

Where bankrupt is a member of or has the protection of parliament.

By the 6 Geo. IV. c. 16, s. 9, a member of parliament may be a bankrupt; but by the 52 Geo. III. c. 144, he vacates his seat, unless the commission is superseded within twelve months from its being issued, or the creditors are paid their debts in full within the same period.

By the 6 Geo. IV. c. 16, s. 9, traders having privilege of parliament committing acts of bankruptcy, may be proceeded against as bankrupts.

By sect. 10, any such traders not paying or compounding to the satisfaction of the creditor, and also entering an appearance to the action within one month, commit an act of bankruptcy. (*See Hunter v. Campbell, 3 B. & Ald. 273; Jameson v. Campbell, 5 B. & Ald. 250; Ex p. Harcourt, 2 Rose, 204.*)

By sect. 11, any such trader disobeying the order of any court of equity, or in bankruptcy or lunacy, for payment of money, after personal service and peremptory day fixed for payment of the money, an act of bankruptcy.

Prosecuting actions against peers or members.

And by the 10 Geo. III. c. 50, any person may commence and prosecute any action in any court of record or court of equity, or of admiralty, (or, in causes matrimonial and testamentary, in any court having cognizance of such causes,) against any peer or member of the House of Commons, or any of their menial or other servants, or any other person entitled to privilege of parliament; and no proceedings thereupon shall be delayed under colour of such privilege. But this shall not subject the person of any member of the House of Commons to be arrested or imprisoned on any such suit or proceedings. And to remedy the dilatoriness by a process of *distringas*, the court out of which the writ proceeds may order the issues levied from time

to time to be sold, and the money arising thereby to be applied to pay such (18.) *Duration costs to the plaintiff as the court shall think just, and the surplus to be de- and Date of tained till the defendant shall have appeared, or other purpose of the writ Acts of Parlia- be answered. And obedience may be enforced to any rule of the Court of ment.* King's Bench, Common Pleas, or Exchequer, against any person entitled to privilege, by distress infinite, if the person entitled to the benefit of such rule shall choose to proceed in that way.

XVIII. Duration of Parliament and Date of Acts of Parliament.

By the 1 Geo. I. s. 2, c. 38, the parliament shall have continuance for seven years, to be accounted from the day on which, by the writ of summons, they shall be appointed to meet, unless sooner dissolved by the king. *To continue seven years.*

And by the 7 & 8 Wil. III. c. 15, and 6 Anne, c. 7, they shall not be dissolved by the king's death, but shall continue and immediately meet, sit, and act for six months, unless sooner dissolved by the successor. And if there be then no parliament in being, the last preceding parliament shall meet, sit, and act as aforesaid. *Not dissolved by the death of the king.*

The 37 Geo. III. c. 127, and 39 & 40 Geo. III. c. 14, have provided, that in case of the king's demise between the dissolution of parliament and the day appointed for the assembling of a new one, the last preceding parliament shall meet, and sit, and continue for six months, unless sooner prorogued or dissolved by the successor. And in case of the king's demise on or after the day of assembling of a new parliament, such new parliament shall meet and sit subject to the will of the successor as above stated. The king may also issue his proclamation for the meeting of parliament in fourteen days from the date thereof, notwithstanding a previous adjournment to a longer day.

By the 33 Geo. III. c. 13, after reciting, "that in every act of parliament in which the commencement thereof is not directed to be from a specific time, it doth commence from the first day of the session of parliament in which such act is passed, which is liable to produce great injustice," it is enacted, "that the clerk of the parliaments shall indorse (in English) on every act of parliament which shall pass after the 8th of April, 1793, immediately after the title of such act, the day, month, and year, when the same passed and received the royal assent; which indorsement shall be taken to be the date of its commencement, where no other commencement shall be therein provided." *Clerk of parliament to indorse on every act the time it receives the royal assent, which shall be its commencement, where no other is provided.*

Before this enactment, every statute (unless otherwise expressly provided) related to the first day of the session when it was passed, contrary to the principle of legislation, that all laws should be made to commence *in futuro*, and be notified before their commencement. (1 *Bla. Com.* 46, *Rumsey v. Tuffnell*, 9 *Moore* 425, 2 *Bingh.* 257.) The consequence was, that frequently great injustice was occasioned; see instances, *R. v. Thurston*, 1 *Lev.* 91; *Latless v. Holmes*, 4 *T. R.* 660; and even ignorance of a statute rendering criminal an act not before so, was held to afford no defence to the indictment, although it was ground for a pardon. (See *Bailey's case*, 1 *Russ. & R. Cr. C.* 1.) But the above statute remedies this evil, and in general, in modern acts, it is provided that they shall commence to operate on some future named day. (1 *Chit. Col. St.* 1031, n.)

By the 48 Geo. III. c. 106, "where any bill shall be introduced into any session of parliament, for the continuance of any act which would expire in such session, and such act shall have expired before the bill for continuing the same shall have received the royal assent, such continuing act shall be deemed to have effect from the date of the expiration of the act intended to be continued, except it shall be otherwise provided in such continuing act; but nothing herein contained shall extend to affect any person with any punishment, penalty, or forfeiture, by reason of any thing done, or omitted to be done, contrary to the provisions of the act continued, between the expiration of the same, and the date at which the act continuing the same shall receive the royal assent." *Where bills for continuing expiring acts shall not pass before the acts expire, such acts shall be continued from their expiration, except as to penalties.*

(19.) Schedules.

XIX. Schedules and General Forms referred to by the
2 Will. IV., c. 45.

SCHEDULE (A.)

Old boroughs dis-
franchised.

Boroughs.	County.	Boroughs.	County.
Old Sarum -	Wiltshire.	Winchelsea -	Sussex.
Newtown -	Isle of Wight.	Tregony -	Cornwall.
St. Michael's or } Midshall - }	Cornwall.	Haslemere -	Surrey.
Gatton -	Surrey.	Saltash -	Cornwall.
Bramber -	Sussex.	Orford -	Suffolk.
Bossiney -	Cornwall.	Callington -	Cornwall.
Dunwich -	Suffolk.	Newton -	Lancashire.
Ludgershall -	Wiltshire.	Ilchester -	Somersetshire.
St. Mawes -	Cornwall.	Boroughbridge -	Yorkshire.
Beeralston -	Devonshire.	Stockbridge -	Hampshire.
West Looe -	Cornwall.	Romney (New) -	Kent.
St. Germain's -	Cornwall.	Hedon -	Yorkshire.
Newport -	Cornwall.	Plympton -	Devonshire.
Blechingley -	Surrey.	Seaford -	Sussex.
Aldborough -	Yorkshire.	Heytesbury -	Wiltshire.
Camelford -	Cornwall.	Steyning -	Sussex.
Hindon -	Wiltshire.	Whitchurch -	Hampshire.
East Looe -	Cornwall.	Wootton Bassett -	Wiltshire.
Corfe Castle -	Dorsetshire.	Downton -	Wiltshire.
Bedwin (Great) -	Wiltshire.	Fowey -	Cornwall.
Yarmouth - }	Isle of Wight, Hampshire.	Milborne Port -	Somersetshire.
Queenborough -	Kent.	Aldeburgh -	Suffolk.
Castle Rising -	Norfolk.	Minchhead -	Somersetshire.
East Grinstead -	Sussex.	Bishop's Castle -	Shropshire.
Higham Ferrers -	Northamptonshire.	Okehampton -	Devonshire.
Wendover -	Buckinghamshire.	Appleby -	Westmoreland.
Weobly -	Herefordshire	Lostwithiel -	Cornwall.
		Brackley -	Northamptonshire.
		Amersham. -	Buckinghamshire.

SCHEDULE (B.)

Old boroughs to
send one member
only.

Boroughs.	County.	Boroughs.	County.
Petersfield -	Hampshire.	Shaftesbury -	Dorsetshire.
Ashburton -	Devonshire.	Thirsk -	Yorkshire.
Eye -	Suffolk.	Christchurch -	Hampshire.
Westbury -	Wiltshire.	Horsham -	Sussex.
Wareham -	Dorsetshire.	Great Grimsby -	Lincolnshire.
Midhurst -	Sussex.	Calne -	Wiltshire.
Woodstock -	Oxfordshire.	Arundel -	Sussex.
Wilton -	Wiltshire.	St. Ives -	Cornwall.
Malmesbury -	Wiltshire.	Rye -	Sussex.
Liskeard -	Cornwall.	Clitheroe -	Lancashire.
Reigate -	Surrey.	Morpeth -	Northumberland.
Hythe -	Kent.	Helston -	Cornwall.
Droitwich -	Worcestershire.	North Allerton -	Yorkshire.
Lyme Regis -	Dorsetshire.	Wallingford -	Berkshire.
Launceston -	Cornwall.	Dartmouth -	Devonshire.

SCHEDULE (C.)

Principal Places to be Boroughs.	Returning Officers.
Manchester (Lancashire) - {	The boroughreeve and constables of Manchester.
Birmingham (Warwickshire) -	The two bailiffs of Birmingham.
Leeds (Yorkshire) -	The mayor of Leeds.
Greenwich (Kent).	
Sheffield (Yorkshire)	The master cutler.
Sunderland (Durham).	
Devonport (Devonshire).	
Wolverhampton (Staffordshire) - {	Constable of the manor of the deanery of Wolverhampton.
Tower Hamlets (Middlesex).	
Finsbury (Middlesex).	
Mary-le-bone (Middlesex).	
Lambeth (Surrey).	
Colton (Lancashire) - {	The boroughreeves of Great and Little Bolton.
Bradford (Yorkshire).	
Blackburn (Lancashire).	
Brighton (Sussex).	
Halifax (Yorkshire).	
Macclesfield (Cheshire) -	The mayor of Macclesfield.
Oldham (Lancashire).	
Stockport (Cheshire) -	The mayor of Stockport.
Stoke-upon-Trent (Staffordshire).	
Stroud (Gloucestershire).	

New boroughs to send two members.

SCHEDULE (D.)

Principal Places to be Boroughs.	Returning Officers.
Ashton-under-Lyne (Lancashire) -	The mayor of Ashton-under-Lyne.
Bury (Lancashire).	
Chatham (Kent).	
Cheltenham (Gloucestershire).	
Dudley (Worcestershire).	
Frome (Somersetshire).	
Gateshead (Durham).	
Huddersfield (Yorkshire).	
Kidderminster (Worcestershire) -	The high bailiff of Kidderminster.
Kendal (Westmoreland) -	The mayor of Kendal.
Rochdale (Lancashire).	
Salford (Lancashire) -	The boroughreeve of Salford.
South Shields (Durham).	
Tynemouth (Northumberland).	
Wakefield (Yorkshire).	
Walsall (Staffordshire) -	The mayor of Walsall.
Warrington (Lancashire).	
Whitby (Yorkshire).	
Whitehaven (Cumberland).	
Merthyr Tydvil (Glamorganshire).	

New boroughs to send one member.

SCHEDULE (E.)

Places sharing in the Election of Members.	Shire-Towns, or Principal Boroughs.	County in which such Boroughs are situated.
Amlwch - - - } sharing with Holyhead, and - - - Llangefni - - -	Beaumaris	Anglesey.
Aberystwith - - - } sharing with Lampeter, and - - - Adpar - - -	Cardigan	Cardiganshire.
Llanelly - - - sharing with	Caermarthen	Caermarthenshire.
Pwllheli - - - } sharing with Nevin - - - Conway - - - Bangor - - - Criccieth - - -	Caernarvon	Caernarvonshire.
Ruthin - - - } sharing with Holt - - - Town of Wrexham - - -	Denbigh	Denbighshire.
Rhyddlan - - - } sharing with Overton - - - Caerwis - - - Caergwrley - - - St. Asaph - - - Holywell - - - Mold - - -	Flint	Flintshire.
Cowbridge - - - } sharing with Llantrissant - - -	Cardiff	Glamorganshire.
Llanidloes - - - } sharing with Welsh Pool - - - Machynlleth - - - Llanfyllin - - - Newtown - - -	Montgomery	Montgomeryshire.
Narberth - - - } sharing with Fishguard - - -	Haverfordwest	Pembrokeshire.
Tenby - - - } sharing with Wiston - - - Town of Milford - - -	Pembroke	Pembrokeshire.
Knighton - - - } sharing with Rhayder - - - Kevinlece - - - Knucklas - - - Town of Presteigne - - -	Radnor	Radnorshire.

SCHEDULE (F. 2.)

Places sharing in the Election of Members.	Places therein from which the Seven Miles are to be calculated.
Newport - - - -	The market place.
Usk - - - -	The town hall.
Aberystwith - - - -	The bridge over the Rheidal.
Lampeter - - - -	The parish church.
Adpar - - - -	The bridge over the Teivi.
Pwllheli - - - -	The guildhall.
Nevin - - - -	The parish church.
Conway - - - -	The parish church.
Criccieth - - - -	The castle.
Ruthin - - - -	The parish church called St. Peter's.
Holt - - - -	The parish church.
Rhyddlan - - - -	The parish church.
Overton - - - -	The parish church.
Caerwis - - - -	The parish church.
Caergwrley - - - -	The parish church of Hope.
Cowbridge - - - -	The town hall.
Llantrissant - - - -	The town hall.
Tenby - - - -	The parish church.
Wiston - - - -	The parish church.
Knighton - - - -	The parish church.
Rhayder - - - -	The market place.
Kevinleece - - - -	The parish church.
Knucklas - - - -	The site of the ancient castle of Cnweglas.
Swansea - - - -	The town hall.
Loughor - - - -	The parish church.
Neath - - - -	The town hall.
Aberavon - - - -	The bridge over the Avon.
Ken-fig - - - -	The parish church of Lower Ken fig.

SCHEDULE (F.)

COUNTIES TO BE DIVIDED.

Cheshire.
Cornwall.
Cumberland.
Derbyshire.
Devonshire.
Durham.
Essex.
Gloucestershire.
Kent.

Hampshire.
Lancashire.
Leicestershire.
Norfolk.
Northumberland.
Northamptonshire.
Nottinghamshire.
Shropshire.

Somersetshire.
Staffordshire.
Suffolk.
Surrey.
Sussex.
Warwickshire.
Wiltshire.
Worcestershire.

SCHEDULE (F. 2.)

COUNTIES TO RETURN THREE MEMBERS EACH.

Berkshire.
Buckinghamshire.
Cambridgeshire.

Dorsetshire.
Herefordshire.

Hertfordshire.
Oxfordshire.

SCHEDULE (G.)

Cities and Towns and Counties thereof.	Counties at large in which Cities and Towns and Counties thereof are to be included.
Caermarthen - - -	Caermarthenshire.
Canterbury - - -	Kent.
Chester - - -	Cheshire.
Coventry - - -	Warwickshire.
Gloucester - - -	Gloucestershire.
Kingston-upon-Hull - - -	East Riding of Yorkshire.
Lincoln - - -	The Parts of Lindsey, Lincolnshire.
London - - -	Middlesex.
Newcastle-upon-Tyne - - -	Northumberland.
Poole - - -	Dorsetshire.
Worcester - - -	Worcestershire.
York and Ainsty - - -	North Riding of Yorkshire.
Southampton - - -	Hampshire.

SCHEDULE (H.)

FORMS of LISTS and NOTICES applicable to COUNTIES.

No. 1.

NOTICE of the MAKING OUT of the LISTS to be given by the OVERSEERS.

We hereby give notice, that we shall, on or before the last day of July in this year, make out a list of all persons entitled to vote in the election of a knight or knights of the shire for the county of [or "for the riding," "parts," or "division of the county of ,"] as the case may be,] in respect of property situate wholly or in part within this parish ["or township"]; and all persons so entitled are hereby required to deliver or transmit to us, on or before the twentieth day of July in this year, a claim in writing, containing their Christian name and surname, their place of abode, the nature of their qualification, and the name of the street, lane, or other like place, wherein the property in respect of which they claim to vote is situated; and if the property be not situated in any street, lane, or other like place, then such claim must describe the property by the name by which it is usually known, or by the name of the tenant occupying the same; and each of such persons so claiming must also at the same time pay to us the sum of one shilling. Persons omitting to deliver or transmit such claim or to make such payment will be excluded from the register of voters for this county [or "riding," "parts," or "division," as the case may be]. [In subsequent years after one thousand eight hundred and thirty-two, add the following words, "But persons whose names are now on the register are not required to make a fresh claim so long as they retain the same qualification and continue in the same place of abode as described in the register."]

(Signed) A. B. } Overseers of the Parish
C. D. } [or "township"] of
E. F. }

No. 2.

NOTICE of CLAIM to be given to the OVERSEERS.

Counties.

I hereby give you notice, that I claim to be inserted in the list of voters for the county of [or "for the riding," "parts," or "division of the county of," as the case may be], and that the particulars of my place of abode and qualification are stated below. Dated the day of in the year

(Signed) John Adams.

Place of abode, Cheapside, London.

Nature of qualification: freehold house, [or warehouse, stable, land, field, annuity, rent-charge, &c., as the case may be, giving such a description of the property as may serve to identify it].

Where situate in this parish [or township], King-street. [If the property be not situate in any street, lane, or other like place, then say, "Name of the property, Highfield Farm," or "Name of the occupying tenant, John Edwards."]

No. 3.

County of to wit, [or "riding," "parts," or "division of the county of," as the case may be.] } The List of Persons entitled to vote in the election of a knight [or "knights"] of the shire for the county of [or "for the riding," "parts," or "division of the county of," as the case may be], in respect of property situate within the parish of [or township, as the case may be].

Christian Name and Surname of each Voter at full Length.	Place of Abode.	Nature of Qualification.	Street, Lane, or other like Place in this Parish [or "Township"] where the Property is situate, or Name of the Property, or Name of the Tenant.
Adams, John - -	Cheapside, London	Freehold house -	King Street.
Alley, James - -	{ Long Lane, in } { this parish - }	Copyhold field {	John Edwards, tenant.
Ball, William -	{ Market Street, } { Lancaster - }	Lease of ware- } house for years }	Duke Street.
Boyce, Henry -	{ Church Street, } { in this parish }	50 acres of land } as occupier - }	Highfield Farm.

(Signed) A. B. }
C. D. } Overseers of the said parish
E. F. } [or "township"].

No. 4.

NOTICE of OBJECTION to be given to the OVERSEERS.

To the Overseers of the parish of [or "township," as the case may be.]

I hereby give you notice, that I object to the name of William Ball being retained in the list of voters for the county of [or "for the riding," "parts," or "division of the county of," as the case may be]. Dated the day of in the year

(Signed) A. B. of [place of abode],
F 2

(19.) General
Forms.

Counties.

No. 5.

NOTICE of OBJECTION to PARTIES inserted in the LIST.

To Mr. William Ball,

I hereby give you notice, that I object to your name being retained in the list of voters for the county of [or "for the riding," "parts," or "division of the county of"], and that you will be required to prove your qualification at the time of the revising of the said list. Dated the day of in the year

(Signed) A. B. of [place of abode].

No. 6.

LIST of PERSONS objected to, to be published by the OVERSEERS.

The following Persons have been objected to as not being entitled to have their names retained in the list of voters for the county of [or "for the riding," "parts," or "division of the county of"].

Christian Name and Surname of each Person objected to.	Place of Abode.	Nature of the supposed Qualification.	Street, Lane, or other like Place in this Parish [or "Township"] where the Property is situate, or Name of the Property, or Name of the Tenant.
Alley, James -	{ Long Lane, in } { this parish - }	Copyhold field {	John Edwards, tenant.
Ball, William -	{ Market Street, } { Lancaster - }	Lease of ware- } house for years }	Duke Street.

*(Signed) A. B. } Overseers of the parish of
C. D. } [or "township," as
E. F. } the case may be].*

SCHEDULE (I.)

FORMS OF LISTS and NOTICES applicable to CITIES and
BOROUGHES.Cities.
Boroughs.

No. 1.

The List of Persons entitled to vote in the election of a member [or "members"] for the city [or "borough"] of _____ in respect of property occupied within the parish [or "township"] of _____ by virtue of an act passed in the second year of the reign of King William the Fourth, intituled "An Act to amend the Representation of the People in England and Wales."

Christian Name and Surname of each Voter at full Length.	Nature of Qualification.	Street, Lane, or other Place in this Parish where the Property is situate.
Ashton, John - - -	House - - - - -	Church Street.
Atkinson, William - -	Warehouse - - - - -	Bolt Court, Fleet Street.
Bates, Thomas - - -	Shop - - - - -	Castle Street.
Bull, Thomas - - -	Counting-house - -	Lord Street.

(Signed) $\left. \begin{array}{l} A. B. \\ C. D. \\ E. F. \end{array} \right\}$ Overseers of the said parish
[or "township"].

No. 2.

The List of all Persons (not being freemen) entitled to vote in the election of a member [or "members"] for the city [or "borough"] of _____ in respect of any rights other than those conferred by an act passed in the second year of the reign of King William the Fourth, intituled "An Act to amend the Representation of the People in England and Wales."

Christian Name and Surname of each Voter at full Length.	Nature of Qualification.	Street, Lane, or other Place in this Parish where the Property is situate. <i>If the Right of voting does not depend on Property, then state the Place of Abode.</i>

(Signed) $\left. \begin{array}{l} A. B. \\ C. D. \\ E. F. \end{array} \right\}$ Overseers of the parish of
[or "township"] within the
said city [or "borough"].

(19.) General
Forms.

No. 3.

Cities.
Boroughs.

The LIST of the Freemen of the City [or "Borough"] of [or "of
," being a Place sharing in the Election with the City [or "Borough"] of
"] entitled to vote in the Election of a Member [or "Members"] for the
said City [or "Borough"].

Christian Name and Surname of each Freemen at full Length.	Place of his Abode.

(Signed) A. B. { Town Clerk of the said city
[or "borough" or "place"] .

No. 4.

NOTICE of CLAIM.

To the Overseers of the Parish [or "Township"] of [or "to the
Town Clerk of the City" [or "Borough"] of or otherwise, as
the case may be].

I hereby give you notice, that I claim to have my name inserted in the list
made by you of persons entitled to vote in the election of a member [or "members"]
for the city [or "borough"] of , and that my qualification consists of
a house in Duke-street in your parish, [or otherwise, as the case may be]; [and
in the case of a freeman say, and that my qualification is as a freeman of ,
and that I reside in Lord-street in this city or borough]. Dated the
day of one thousand eight hundred and thirty

(Signed) John Allen of [place of abode].

No. 5.

NOTICE of OBJECTION.

To the Overseers of the Parish [or "Township"] of [or "to the
Town Clerk of the City" [or "Borough"] of or otherwise, as
the case may be].

I hereby give you notice, that I object to the name of Thomas Bates being
retained in the list of persons entitled to vote in the election of a member [or
"members"] for the city [or "borough"] of , and that I shall bring
forward such objection at the time of the revising of such list. Dated the
day of in the year .

(Signed) A. B. of [place of abode].

No. 6.

(19.) General
Forms.

LIST of CLAIMANTS, to be published by the OVERSEERS.

The following persons claim to have their names inserted in the list of persons entitled to vote in the election of a member [or "members"] for the city [or "borough"] of

Cities.
Boroughs.

Christian Name and Surname of each Claimant at full length.	Nature of Qualification.	Street, Lane, or other Place in this Parish where the Property is situate. <i>If the Right does not depend on Property, state the Place of Abode.</i>
Allen, John.	House.	Duke Street.

(Signed) *A.B.* }
C.D. } Overseers of, &c.
E.F. }

No. 7.

LIST of PERSONS objected to, to be published by the OVERSEERS.

The following persons have been objected to as not being entitled to have their names retained in the list of persons qualified to vote in the election of a member [or "members"] for the city [or "borough"] of

Christian Name and Surname of each Person objected to.	Nature of the supposed Qualification.	Street, Lane, or other Place in this Parish where the Property is situate. <i>If the Right does not depend on Property, state the Place of Abode.</i>
Bates, Thomas.	Shop.	Castle Street.

(Signed) *A.B.* }
C.D. } Overseers of, &c.
E.F. }

No. 8.

LIST of CLAIMANTS, to be published by the TOWN CLERKS.

The following persons claim to have their names inserted in the list of the free-men of the city [or "borough"] of [or "of", being a place sharing in the election with the city [or "borough"] of], entitled to vote in the election of a member [or "members"] for the said city [or "borough"].

Christian Name and Surname of each Claimant at full Length.	Place of his Abode.

(Signed) *A.B.* } Town Clerk of the said city
[or borough or place].

Cities.
Boroughs.

The LIST of PERSONS objected to, to be published by the TOWN CLERKS.

The following persons have been objected to as having no right to be retained on the list of the freemen of the city [or "borough"] of [or "of", "being a place sharing in the election with the city [or "borough"] of], entitled to vote in the election of a member [or "members"] for the said city" [or "borough"].

Christian and Surname of each Person objected to.	Place of his Abode.

(Signed) A.B. { Town Clerk of the said city
[or "borough" or "place"] }.

SCHEDULE (K.)

A LIST of such of the FREEMEN of LONDON as are Liverymen of the Company of [] entitled to vote in the Election of Members for the City of London.

Christian Name and Surname of the Voter, at full Length.	Street, Lane, or other Description of his Place of Abode.

(Signed) A. B., Clerk.

No. 1.

NOTICE of CLAIM to be given to the RETURNING OFFICER or OFFICERS of the City of London, and to the CLERKS of the respective LIVERY COMPANIES.

To the Returning Officer or Officers of the City of London [or "to the Clerk of the Company of "].

I hereby give you notice, that I claim to have my name inserted in the list made by the clerk of the company of [or, in case of notice to the clerk, say, "made by you"] of the liverymen of the said company [or, in case of notice to the clerk, say, "of the liverymen of the company of "] entitled to vote in the election of members for the City of London. Dated the day of

(Signed) A. B. { [Place of Abode.
Name of Company.] }

No. 2.

Cities.
Boroughs.

LIST of CLAIMANTS to be published by the RETURNING OFFICER or OFFICERS of the City of London.

The following persons claim to have their names inserted in the list of persons entitled to vote as freemen of the city of London, and liverymen of the several Companies herein specified, in the election of members for the city of London.

Christian Name and Surname of Claimants, at full length.	Place of Abode.

No. 3.

NOTICE of OBJECTION to PARTIES inserted in the LIST of the LIVERY.

To Mr. William Baker,

I hereby give you notice, that I object to your name being retained in the list of persons entitled to vote as freemen of the city of London, and liverymen of the Company of , in the election of members for the said city, and that I shall bring forward such objection at the time of revising the said list.
Dated the day of .

(Signed) A. B. [Place of Abode].

SCHEDULE (L.)

Boroughs.	Temporary Contents and Boundary.
Ashton-under-Lyne.	The division of the parish of Ashton-under-Lyne, called the Town's Division.
Birmingham .	Parishes of Birmingham and Edgbaston, and townships of Bordesley, Deritend, and Duddeston with Nechels.
Blackburn .	Township of Blackburn.
Bolton .	Townships of Great Bolton, Haulgh, and Little Bolton, except the detached part of the township of Little Bolton, which lies to the north of the town of Bolton.
Bradford .	Township of Bradford.
Brighthelmstone	Parishes of Brighthelmstone and Hove.
Bury .	Township of Bury.

(19.) *Temporary Boundaries.**Boroughs.*

Boroughs.	Temporary Contents and Boundary.
Chatham .	From the easternmost point at which the boundary of the city of Rochester meets the right bank of the river Medway, southward along the boundary of the city of Rochester, to the boundary stone of the said city, marked 5 ; thence in a straight line to the Windmill in the parish of Chatham on the top of Chatham hill ; thence in a straight line to the Oil Windmill in the parish of Gillingham, between the village of Gillingham and the fortifications ; thence in a straight line through Gillingham Fort to the right bank of the river Medway ; thence along the right bank of the river Medway to the point first described.
Cheltenham .	Parish of Cheltenham.
Devenport .	Parish of Stoke Damerill and township of East Stonehouse.
Dudley .	Parish of Dudley.
Finsbury .	Parishes of St. Giles in the Fields; St. George Bloomsbury; St. George the Martyr; St. Andrew above Bars; St. Luke; St. Sepulchre, except so much as is in the city of London; St. James Clerkenwell, except so much as is locally in the parish of Hornsey; Ecclesiastical Districts of Trinity; St. Paul, and St. Mary in the parish of St. Mary Islington; Liberties of Saffron Hill, Hatton Garden, and Ely Rents; Ely Place; the Rolls; Glass-house Yard; precinct of the Charter House; Lincoln's Inn; Gray's Inn; so much of Furnival's Inn and Staple's Inn as is not within the City of London.
Frome .	Town of Frome as within the limits now assigned to the town of Frome by the trustees under the provisions of an act passed in the first and second year of his present majesty, intituled "An Act for better repairing and improving several Roads leading to and from the Town of Frome in the County of Somerset."
Gateshead .	Parish of Gateshead.
Greenwich .	Parishes of St. Paul and St. Nicholas, Deptford, and so much of the parishes of Greenwich, Charlton, and Woolwich as lie between the Thames and the Dover road.
Halifax .	Township of Halifax.
Huddersfield .	Township of Huddersfield.
Kendal .	Townships of Kendal and Kirkland, and all such parts of the township of Nethergaveship as adjoin the township of Kendal.
Kidderminster .	Borough of Kidderminster.
Lambeth .	Parishes of St. Mary Newington; St. Giles Camberwell, except the manor and hamlet of Dulwich; precinct of the palace; and so much of the parish of Lambeth as is north of the ecclesiastical division of Brixton.
Leeds .	Borough of Leeds.
Macclesfield .	Borough of Macclesfield.
Manchester .	Townships of Manchester, Chorlton Row, Ardwick, Hulme, Beswick, Cheetham, Bradford, Newton, and Harpur Hey.
Marylebone .	Parishes of St. Marylebone and Paddington, and so much of the parish of St. Pancras as is south of the Regent's Canal.
Merthyr Tydvill .	Parishes of Merthyr Tydvill and Aberdare.
Oldham .	Township of Oldham.
Rochdale .	Town of Rochdale, as within the provisions of an act passed in the sixth year of his late majesty, intituled "An Act for lighting, cleansing, watching and regulating the Town of Rochdale in the County Palatine of Lancaster."
Salford .	Townships of Salford, Pendleton, and Broughton.
Sheffield .	Townships of Sheffield, Attercliffe-cum-Darnall, Brightside Bierlow, and Nether Hallam.
South Shields .	Townships of South Shields and Westoe.

Boroughs.	Temporary Contents and Boundary.
Stockport . Stoke-upon-Trent	Borough of Stockport ; hamlets of Brinksway and Edgeley. Townships of Tunstall, Burslem, Hanley, Shelton, Penk- hull with Boothen, Lane End, Longton, Fenton Vivian, Fenton Culvert; hamlet of Sneyd; and vill of Rushton Grange.
Stroud .	Parishes of Stroud, Bisley, Painswick, Pitchcomb, Randwick, Stonehouse, Eastington, Leonard Stanley except Lorridge's Farm; King's Stanley, Rodborough, Minchinhampton, Woodchester, Avening, Horsley.
Sunderland .	Parish of Sunderland; townships of Bishop Wearmouth, Bishop Wearmouth Panns, Monk Wearmouth, Monk Wearmouth Shore, and Southwick.
Tower Hamlets	Liberties of the Tower, and Tower division of Ossulston Hun- dred, except the parishes of St. John Hackney, St. Mary Stratford-le-Bow, and St. Leonard Bromley.
Tynemouth .	Townships of Tynemouth, North Shields, Chirton, Preston, and Cullercoats.
Wakefield .	Township of Wakefield.
Walsall .	Borough of Walsall, except the parts detached from the borough of Walsall.
Warrington .	Township of Warrington.
Whitehaven .	Township of Whitehaven.
Whitby .	Township of Whitby.
Wolverhampton	Townships of Wolverhampton, Bilston, Wednesfield, and Willenhall; and parish of Sedgeley.

XX. Division of Counties and Boundaries of Boroughs.

The frequent reference by the Reform Act to the 2 & 3 Wil. IV. c. 64, which was subsequently passed for the purpose of settling and describing the divisions of counties, and the limits of cities and boroughs, has rendered its introduction under this division of the work indispensably requisite, and consequently swelled its extent considerably beyond the wish and original intention of the Editors. As, however, it may not unfrequently be necessary to ascertain the fixed limits of particular boroughs, not only with reference to the election of members to serve in parliament, but in explanation of the "Act for the Regulation of Municipal Corporations," it has been thought advisable to insert it under this head, as more properly appertaining to the subject than under the title "Corporations;" and in our observations on the Municipal Corporation Act we have accordingly referred to it in its place here.

By the 2 & 3 Wil. IV. c. 64, after reciting that, "by an act passed in this 2 W. IV. c. 45. present session of parliament, and intituled 'An Act to amend the Representation of the People in England and Wales,' it was (amongst other things) provided, that each of the counties enumerated in the schedule marked (F.) thereto annexed should be divided into two divisions, which divisions should be settled and described by an act to be passed for that purpose in this present parliament, which act, when passed, should be deemed and taken to be part of the act now in recital as fully and effectually as if incorporated therewith; and that two knights of the shire should be chosen for each division of the said counties; and that the court for the election of such knights of the shire should be held at the place to be named for that purpose in the act so to be passed for settling and describing the divisions of the said counties: and whereas the act so to be passed for settling and describing the divisions of the said counties, as in the said recited act is mentioned,

(20.) *Division
of Counties, &c.*

Cheshire.

is this present act: and also that the several counties enumerated in the said schedule marked (F.) to the said recited act annexed are the several counties whereof the divisions are hereinafter settled and enacted.

“The two divisions of the county of Chester to be called the Northern Division and the Southern Division; the Northern Division to include the whole of the respective hundreds of Macclesfield and Bucklow; and the Southern Division the whole of the several hundreds of Broxton, Eddisbury, Nantwich, Northwich, and Wirrall; and also the city and county of the city of Chester. The court for the election of knights of the shire to be held for such Northern Division at the town of Knutsford, and for such Southern Division at the city of Chester.

Cornwall.

“The two divisions of the county of Cornwall to be called the Eastern and the Western Division; such Eastern Division to include the whole of the several hundreds called East, West, Lesnewth, Stratton, and Trigg; and also the following parishes and places in the hundred of Powder, (that is to say,) St. Austell, St. Blazey, St. Denis, St. Ewe, Fowey, Gorran, Ladock, Lanlivery, Lostwithiel, Luxulion, Mevagissey, St. Mewan, St. Michael Carhaise, Roach, St. Sampson's, St. Stephen's in Brannel, and Tywardreth; together with all such part of the hundred of Pydar as is not included in the Western Divisions of the county of Cornwall next hereinafter described; and such Western Division the whole of the respective hundreds of Kerrier and Penwith; all such part of the hundred of Powder as is not included in the Eastern Division of the county of Cornwall, hereinbefore described; the following parishes in the hundred of Pydar, (that is to say,) St. Agnes, Crantock, Cubert, Newlyn, St. Enoder, and Perranzabuloe, and the Scilly Islands. The court for the election of knights of the shire to be held for such Eastern Division at the borough of Bodmin, and for such Western Division at the borough of Truro.

Cumberland.

“The two divisions of the county of Cumberland to be called the Eastern and the Western Division; such Eastern Division to include the whole of the several wards of Cumberland, Eskdale, and Leath; and such Western Division the whole of the respective wards of Allerdale above Derwent, and Allerdale below Derwent. The court for the election of knights of the shire to be held for such Eastern Division at the city of Carlisle, and for such Western division at the borough of Cockermouth.

Derby.

“The two divisions of the county of Derby to be called the Northern and the Southern Division; such Northern Division to include the whole of the respective hundreds of High Peak and Scarsdale; and also so much of the wapentake of Wirksworth as, by virtue of the order made at the quarter sessions of the peace for the county of Derby held at the borough of Derby on the 28th day of June, 1831, is comprised in the Bakewell Division, as established by such order; and such Southern Division the whole of the several hundreds of Appletree, Morleston and Litchurch, and Repton and Gresley; and all such parts of the wapentake of Wirksworth as are included within the Northern Division of the county of Derby last hereinbefore described. The court for the election of knights of the shire to be held for such Northern Division at the town of Bakewell, and for such Southern Division at the County Hall in Derby.

Devon.

“The two divisions of the county of Devon to be called the Northern and Southern Division; such Northern Division to include the whole of the several hundreds of Bampton, Black Torrington, Braunton, Crediton, Fremington, Halberton, Hartland, Hayridge, Hemyock, North Tawton and Winkleigh, Shebbear, Sherwill, South-Molton, Tiverton, Witheridge, and West Budleigh; and such Southern Division the whole of the several hundreds of Axminster, Clyston, Colyton, Ottery St. Mary, East Budleigh, Lifton, Exminster, Teignbridge, Haytor, Coleridge, Stanborough, Ermington, Plympton, Roborough, and Tavistock; and also the Castle of Exeter; and the hundred of Wonford, except such parts of that hundred as are included in the limits of the city of Exeter as hereinafter described. The court for the election of knights of the shire to be held for such Northern

Division at the town of South-Molton, and for such Southern Division at the city of Exeter. (20.) *Division of Counties, &c.*

"The two divisions of the county of Durham to be called the Northern and the Southern Division; such Northern Division to include the whole of the respective wards of Chester and Easington; and such Southern Division the whole of the respective wards of Darlington and Stockton. The court for the election of knights of the shire to be held for such Northern Division at the city of Durham, and for such Southern Division at the town of Darlington. Durham.

"The two divisions of the county of Essex to be called the Northern and the Southern Division; such Northern Division to include the whole of the several hundreds of Clavering, Dunmow, Freshwell, Hinckford, Lexden, Tendring, Thurstable, Uttlesford, Winstree, and Witham; and such Southern Division the whole of the several hundreds of Barstable, Becontree, Chafford, Chelmsford, Dengie, Harlow, Ongar, Rochford, and Waltham; and of the liberty of Havering. The court for the election of knights of the shire to be held for such Northern Division at the town of Braintree, and for such Southern Division at the town of Chelmsford. Essex.

"The two divisions of the county of Gloucester to be called the Eastern and the Western Division; such Eastern Division to include the whole of the several hundreds of Crowthorne and Minety, Brightwell's Barrow, Bradley, Rapsgate, Bisley, Longtree, Whitstone, Kiftsgate, Westminster, Deerhurst, Slaughter, Cheltenham, Cleeve, Tibaldston, Tewkesbury, and Dudstone and King's Barton; and also the city and county of the city of Gloucester and the borough of Cirencester; and such Western Division the whole of the several hundreds of Berkley, Thornbury, Langley and Swineshead, Grumbald's Ash, Puckle Church, Lancaster Duchy, Botloe, St. Briarvel's, Westbury, and Blidesloe; and the hundreds of Henbury and Barton Regis, except such parts of those hundreds as are included in the limits of the city of Bristol as hereinafter described. The court for the election of knights of the shire to be held for such Eastern Division at the city of Gloucester, and for such Western Division at the town of Dursley. Gloucester.

"The two divisions of the county of Hants to be called the Northern and the Southern Division; such Northern Division to include the whole of the several now existing divisions of Alton, Andover, Basingstoke, King's Clere, Droxford, Odiham, Petersfield, and Winchester, as the same are now established by virtue of an order made by his majesty's justices of the peace for the county of Hants at the Midsummer quarter sessions for the said county held at Winchester on the 28th day of June, 1831; and also all such other places, if any, in the said county of Hants, as are locally situated within or are surrounded by the said sessional divisions or any of them, and are not mentioned in the said order; and such Southern Division the whole of the several now existing divisions of Fareham, Lymington, Ringwood, Romsey, and Southampton, as the same are now established by the order aforesaid; and also all such other places, if any, in the said county of Hants, as are locally situated within or are surrounded by the said four last-mentioned sessional divisions of the said county or any of them, and are not mentioned in the said order; and also the town and county of the town of Southampton. The court for the election of knights of the shire shall be held for such Northern Division at the city of Winchester, and for such Southern Division at the borough of Southampton. Hants.

"The two divisions of the county of Kent to be called the Eastern and the Western Division; such Eastern Division to include the whole of the respective lathes of St. Augustine and Shepway, including the liberty of Romney Marsh, and of the upper division of the lathe of Scray; and such Western Division the whole of the respective lathes of Sutton-at-Hone and Aylesford, and of the lower division of the lathe of Scray. The court for the election of knights of the shire to be held for such Eastern Division at the city of Canterbury, and for such Western Division at the borough of Maidstone. Kent.

"The two divisions of the county of Lancaster to be called the Northern Lancaster.

(20.) *Division of Counties, &c.*

Leicester.

and the Southern Division; such Northern Division to include the whole of the several hundreds of Lonsdale, Amounderness, Leyland, and Blackburn; and such Southern Division the whole of the respective hundreds of Salford and West Derby. The court for the election of knights of the shire to be held for such Northern Division at the borough of Lancaster, and for such Southern Division at the town of Newton.

“The two divisions of the county of Leicester to be called the Northern and the Southern Division; such Northern Division to include the whole of the several hundreds of West Goscote, East Goscote, and Framland; and also those two detached portions of the hundred of Gartree which are situated on the east of the hundred of East Goscote; and such Southern Division the whole of the several hundreds of Gartree (except as before mentioned), Sparkenhoe, and Guthlaxton; and also the borough of Leicester and the liberties thereof. The court for the election of knights of the shire to be held for such Northern Division at the town of Loughborough, and for such Southern Division at the borough of Leicester.

Norfolk.

“The two divisions of the county of Norfolk to be called the Eastern and the Western Division; and such Eastern Division shall include the whole of the several hundreds of Blofield, Clavering, Depwade, Diss, Earsham, North Erpingham, South Erpingham, Eynesford, East Flegg, West Flegg, Forehoe, Happening, Henstead, Humbleyard, Loddon, Taversham, Tunstead, and Walsham; and such Western Division the whole of the several hundreds of Freebridge Marshland, Smithdon, Freebridge Lynn, Clackclose, Brothercross, Gallow, Holt, Launditch, South Greenhoe, Grimshoe, North Greenhoe, Wayland, Shropham, Gilt Cross, and Mitford. The court for the election of knights of the shire to be held for such Eastern Division at the city of Norwich, and for such Western Division at the town of Swaffham.

Northampton.

“The two divisions of the county of Northampton to be called the Northern and the Southern Division; such Northern Division to include the whole of the liberty of Peterborough, and of the several hundreds of Willybrook, Polebrook, Huxloe, Navisford, Corby, Higham Ferrers, Rothwell, Hamfordshoe, and Orlingbury; and such Southern Division the whole of the several hundreds of Kings Sutton, Chipping Warden, Greens Norton, Cleley, Towcester, Fawsley, Wymersley, Spelhoe, Nobottle Grove, and Guilsborough. The court for the election of knights of the shire to be held for such Northern Division at the town of Kettering, and for such Southern Division at the borough of Northampton.

Northumberland.

“The two divisions of the county of Northumberland to be called the Northern and the Southern Division; such Northern Division to include the whole of the several wards of Bamborough, Coquetdale, Glendale, and Morpeth, and of the Berwick Bounds; and such Southern Division the whole of the respective wards of Tynedale and Castle, and also the town and county of the town of Newcastle-upon-Tyne. The court for the election of knights of the shire to be held for such Northern Division at the town of Alnwick, and for such Southern Division at the town of Hexham.

Nottingham.

“The two divisions of the county of Nottingham to be called the Northern and the Southern Division; such Northern Division to include the whole of the respective hundreds of Bassetlaw and Broxstow; and such Southern Division the whole of the several hundreds of Rushcliffe, Bingham, Newark, and Thurgarton. The court for the election of knights of the shire to be held for such Northern Division at the town of Mansfield, and for such Southern Division at the borough of Newark.

Salop.

“The two divisions of the county of Salop to be called the Northern and the Southern Division; such Northern Division to include the whole of the several hundreds of Oswestry, Pimhill, North Bradford and South Bradford, and of the liberty of Shrewsbury; and such Southern Division the whole of the several hundreds of Brimstrey, Chirbury, Condover, Ford, Munslow, Overs, Purslow, including Clun, and Stoddesdon, and of the franchise of Wenlock. The court for the election of knights of the shire to be held for such Northern Division at the borough of Shrewsbury, and for such Southern Division at the town of Church Stretton.

"The two divisions of the county of Somerset to be called the Eastern (20.) *Division of Counties, &c.* and the Western Division; such Eastern Division to include the whole of the several hundreds or liberties of Bath Forum, Bempstone, Brent and Wrington, Bruton, Catsash, Chew and Chewton, Norton Ferris, Frome, Glaston Twelve Hides, Hampton and Claverton, Horethorne, Keynsham, Kilmersdon, Mells and Leigh, Portbury, Wellow, Wells Forum, Whitstone, Winterstoke, and Witham Friary; and also the hundred of Hartcliffe with Bedminster, except such parts of that hundred as are included in the limits of the city of Bristol as hereinafter described; and such Western Division the whole of the several hundreds of Abdick and Bulstone, Andersfield, Cannington, Carhampton, Crewkerne, North Curry, Houndsborough, Berwick, and Coker, Huntspill and Puriton, Kingsbury East, Kingsbury West, Martock, Milverton, North Petherton, South Petherton, Pitney, Somerton, Stone, Taunton and Taunton Dean, Tintinhull, Whitley, and Williton and Freemanors. The court for the election of knights of the shire to be held for such Eastern Division at the city of Wells, and for such Western Division at the borough of Taunton.

Somerset.

"The two divisions of the county of Stafford to be called the Northern and the Southern Division; such Northern Division to include the whole of the several hundreds of Pirehill, Totmonslow, and North Offlow; and such Southern Division the whole of the respective hundreds of South Offlow, Seisdon, and Cuttlestone. The court for the election of knights of the shire to be held for such Northern Division at the borough of Stafford, and for such Southern Division at the city of Lichfield.

Stafford.

"The two divisions of the county of Suffolk to be called the Eastern and the Western Division; such Western Division to include the whole of the liberty of Bury St. Edmunds, and of the respective hundreds of Hartesmere and Stow; and such Eastern Division all such parts of the county of Suffolk as are not comprised in the liberty of Bury St. Edmunds, or in either of the hundreds of Hartesmere and Stow. The court for the election of knights of the shire to be held for such Western Division at the borough of Bury St. Edmunds, and for such Eastern Division at the borough of Ipswich.

Suffolk.

"The two divisions of the county of Surrey to be called the Eastern and the Western Division; such Eastern Division to include the whole of the several hundreds of Brixton, Kingston, Reigate, Tandridge, and Wallington; and such Western Division the whole of the several hundreds of Blackheath, Copthorne, Effingham, Elmbridge, Farnham, Godalming, Godley and Chertsey, Woking, and Wotton. The court for the election of knights of the shire to be held for such Eastern Division at the town of Croydon, and for such Western Division at the borough of Guildford.

Surrey.

"The two divisions of the county of Sussex to be called the Eastern and the Western Division; such Eastern Division to include the whole of the several rapes of Lewes, Hastings, and Pevensey; and such Western Division the whole of the several rapes of Arundel, Bramber, and Chichester. The court for the election of knights of the shire to be held for such Eastern Division at the borough of Lewes, and for such Western Division at the city of Chichester.

Sussex.

"The two divisions of the county of Warwick to be called the Northern and the Southern Division; such Northern Division to include the whole of the hundred of Hemlingford, and of the county of the city of Coventry, and the Rugby Division, and the Kirby Division of the hundred of Knightlow; and such Southern Division the whole of the respective hundreds of Barlichway and Kington, and the Kenilworth Division, and the Southam Division of the hundred of Knightlow. The court for the election of knights of the shire to be held for such Northern Division at the town of Coleshill, and for such Southern Division at the borough of Warwick.

Warwick.

"The two divisions of the county of Wilts to be called the Northern and the Southern Division; such Northern Division shall include the whole of the several hundreds of Chippenham, North Damerham, Bradford, Melksham, Potterne and Cannings, Calne, Selkley, Ramsbury, Whorwelsdown, Swanborough, Highworth, Cricklade, and Staple, Kingsbridge, and Malms-

Wilts.

(20.) *Division
of Counties, &c.*

bury; and such Southern Division the whole of the several hundreds of Kinwardstone, Heytesbury, Branch and Dole, Elstub and Everley, Amesbury, Warminster, Mere, South Damerham, Downton, Chalk, Dunworth, Cawden and Cadworth, Frustfield, Alderbury, Underditch, and Westbury. The court for the election of knights of the shire to be held for such Northern Division at the borough of Devizes, and for such Southern Division at the city of Salisbury.

Worcester.

“The two divisions of the county of Worcester to be called the Eastern and the Western Division; such Eastern Division to include the whole of the several now existing Divisions of Stourbridge, Dudley, Droitwich, Northfield, Blockley, and Pershore, as the same are established by an order made by his majesty’s justices of the peace for the county of Worcester at the Epiphany Quarter Sessions for the year 1831; and also the borough of Evesham; and also all such other places, if any, in the said county of Worcester, as are locally situated within or are surrounded by the hereinbefore mentioned sessional divisions thereof, or any of them, and are not mentioned in the said order; and such Western Division the whole of the several now existing Divisions of Upton, Worcester, Hundred House, and Kidderminster, as the same are established by the last-mentioned order; and also the city and county of the city of Worcester; and also all such other places, if any, in the said county of Worcester, as are locally situated within or are surrounded by the four lastly hereinbefore mentioned sessional divisions thereof, or any of them, and are not mentioned in the said order. The court for the election of knights of the shire to be held for such Eastern Division at the borough of Droitwich, and for such Western Division at the city of Worcester.”

Detached parts of
counties.

By 2 & 3 Wil. IV. c. 64, sect. 26, “the isolated parts of counties in England and Wales which are described in the schedule to the said act annexed marked (M.) shall, as to the election of members to serve in parliament as knights of the shire, be considered as forming parts of the respective counties and divisions which are respectively mentioned in the fourth column of the said schedule (M.) in conjunction with the names of such isolated parts respectively; and that every part of any county in England or Wales which is detached from the main body of such county, but for which no special provision is hereby made, shall be considered, for the purposes of the election of members to serve in parliament as knights of the shire, as forming part of that county (not being a county corporate), and of that division, riding, or parts, whereby such detached part shall be surrounded; but if any such detached part shall be surrounded by two or more counties, or divisions, ridings, or parts, then as forming part of that county, or division, riding, or parts, with which such detached part shall have the longest common boundary.”

Detached parts of
hundreds, &c.

By sect. 27, “as respects the counties of York and Lincoln, and also the counties thereinbefore divided, except the counties of Hants and Worcester, every portion of any hundred, ward, wapentake, rape, lathe, or liberty of any such county which is detached from the main body of such hundred, ward, wapentake, rape, lathe, or liberty, and is also locally separated from that division of the county to which such main body is to belong under the provisions contained in this act or in the hereinbefore recited act, but which is not subject to the provisions lastly hereinbefore contained, shall, for the purpose of the election of members to serve in parliament as knights of the shire, be considered as forming part of that division, parts, or riding of the same county by which such detached portion is surrounded, or to which it adjoins.”

Liberties, &c.

By sect. 28, “all liberties, franchises, and places having a separate jurisdiction, which are not thereinbefore expressly mentioned (except the several cities and towns, and counties thereof respectively, of Bristol, Exeter, Lichfield, Norwich, and Nottingham, and except the several places by this act comprised within the boundaries thereof respectively), shall, as to the election of members to serve in parliament as knights of the shire, respectively be considered as included within the respective divisions thereby established in

which such liberties, franchises, and places having a separate jurisdiction shall be locally situated."

(20.) *Division of Counties, &c.*

By sect. 29, reciting that by 2 Wil. IV. c. 45, it is provided "that the respective counties in England and Wales, and the respective ridings, parts, and divisions of counties, should be divided into convenient districts for polling, and that in each district should be appointed a convenient place for taking the poll at all elections of a knight or knights of the shire to serve in any future parliament, and that such districts and places for taking the poll should be settled and appointed by the act to be passed in this present parliament for the purpose of settling and describing the divisions of the counties enumerated in the schedule marked (F.) to the said recited act annexed, provided that no county, nor any riding, parts, or division of a county, should have more than fifteen districts and respective places appointed for taking the poll for such county, riding, parts, or division; and by the said recited act it is also provided that the several boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford, as thereby defined, should be divided into convenient districts for polling, and that there should be appointed in each district a convenient place for taking the poll at all elections of members to serve in any future parliament for each of the said boroughs, which districts and places for taking the poll should be settled and appointed by an act to be passed in this present parliament; be it therefore enacted, that the poll for election of knights of the shire shall be taken at such places as in the schedule to this act annexed marked (N.) are mentioned in conjunction with the names of the counties, and of the ridings, parts, and divisions of counties, in which such places are respectively situated."

County polling places, such as are mentioned in schedule (N.) See *post.*

By sect. 30, "the justices of the peace for every county in England and Wales, and for each of the ridings of Yorkshire, and for the parts of Lindsey, and for the parts of Kesteven and Holland, in Lincolnshire, assembled at the quarter sessions to be holden in the month of October, in the then present year, or at some special sessions to be appointed by them so assembled as aforesaid which shall be holden on or before the last day of October in the then present year, were empowered to divide their respective counties, and ridings, parts, and divisions of counties, into convenient districts for polling, and assign one of such districts to every polling place mentioned in the said schedule marked (N.) to this act annexed; and that a list describing the districts named in every such assignment, and naming the polling places to which such districts were respectively assigned, should be lodged with the clerk of the peace of the county, riding, or parts, who should forthwith cause copies of such list to be printed, and deliver a copy of such list to every person applying for the same, upon payment of one shilling for each copy."

Polling districts for counties to be settled by justices.

By sect. 31, "for the purpose of assigning such districts to every polling place as aforesaid, every liberty, franchise, and place having a separate or exclusive jurisdiction shall be considered as being within that county, and within that division, riding, or parts, in which such liberty, franchise, or place is placed by this act, or by the act hereinbefore recited, or in which the same is locally situated: provided nevertheless, that the justices of the peace for the Isle of Ely, assembled at the quarter sessions for the said Isle of Ely to be holden in the month of October in the then present year, or at some special sessions to be appointed by them, so assembled as aforesaid, which should be holden on or before the last day of October in the then present year, should divide the said Isle of Ely into convenient districts for polling, and assign one of such districts to every polling place within the said Isle of Ely mentioned in the said schedule (N.); and that a list, describing the districts named in such assignment, and naming the polling places to which such districts are respectively assigned, should be lodged with the clerk of the peace for the said Isle of Ely, who should allow the same, or a copy thereof, to be inspected at his office at all times."

In what counties, &c. places having separate jurisdiction are to be considered.

By sect. 32, "the poll for the election of members to serve in parliament for the said several boroughs of New Shoreham, Cricklade, Aylesbury, and

Polling places for New Shoreham, &c.

(20.) *Division of Counties, &c.*

Polling districts for New Shoreham, &c. to be settled by justices.

Election or poll may take place at places in the neighbourhood of those named in this act.

Contents and boundaries shall be such as are set forth in schedule (O.) See *post*.

Rules for the construction of the descriptions contained in schedule (O.) to this act.

East Retford, shall be taken at the place or places which in the schedule to this act annexed marked (N. 2) is or mentioned in conjunction with the names of such several boroughs respectively."

By sect. 33, "the justices of the peace for the respective counties in which the boroughs of New Shoreham, Cricklade, and East Retford are situated, at the quarter sessions to be holden in the month of October in the then present year, were empowered to divide the said boroughs of New Shoreham, Cricklade, and East Retford into convenient districts for polling, and assign one of such districts to every polling place for the said boroughs of New Shoreham, Cricklade, and East Retford, mentioned in the said schedule to this act annexed marked (N. 2); and a list describing the districts named in such assignment, and naming the polling places to which such districts are respectively assigned, to be lodged with the returning officer of the respective borough, who is forthwith to cause copies of such list to be printed, and to be fixed on the doors of the several churches and chapels within the borough for which such districts are assigned."

By sect. 34, "if it shall seem fit to the sheriff, the court for the election of knights of the shire may be held, or the poll may be taken, at any place or spot in the neighbourhood of any place appointed by this act for holding such court or taking such poll respectively, at which such court or poll may have heretofore been held or taken, or which may be convenient for either of those purposes; any thing herein contained notwithstanding."

By sect. 35, reciting that by the 2 Wil. IV. c. 46, "it is also provided that each of the places enumerated in the schedules thereto annexed respectively marked (C.), (D.), and (E.), and that every city and borough in England which before the passing of the said recited act was entitled to return a member or members to serve in parliament, (except the several boroughs enumerated in the schedule thereto annexed marked (A.), and except the several boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford,) and that the borough of Brecon, and each of the towns of Swansea, Loughor, Neath, Aberavon, and Kenfig, should, for the purposes of the said recited act, include the place or places respectively which should be comprehended within such boundaries as should be settled and described by an act to be passed for that purpose in this present parliament, which act when passed should be deemed and taken to be part of the said recited act as fully and effectually as if incorporated therewith: and whereas the act so to be passed for settling and describing the boundaries of cities, boroughs, and places as in the said recited act is mentioned is this present act: and whereas the several cities, boroughs, and places whereof the boundaries were so to be settled and described as in the said recited act is mentioned are the several cities, boroughs, and places which are specified in the schedule to this act annexed marked (O.); be it therefore further enacted and declared, that the several cities, boroughs, and places specified in the said schedule to this act annexed marked (O.) shall, as to the election of members or a member to serve in parliament, respectively include the places and be comprised within the boundaries which in such schedule are respectively specified and described in conjunction with the names of such cities, boroughs, and places respectively."

By sect. 36, "the following rules shall be observed in the construction of the several descriptions of boundaries contained in the said schedule hereto annexed marked (O.); (that is to say,)

"1.—That the words 'northward,' 'southward,' 'eastward,' 'westward,' shall respectively be understood to denote only the general direction in which any boundary proceeds from the point last described, and not that such boundary shall continue to proceed throughout in the same direction to the point next described:

"2.—That when any road is mentioned merely by the name of the place to which such road leads, the principal road thither from the city, borough, or place of which the boundary is in course of description shall be understood:

"3.—That whenever a line is said to be drawn from, to, or through an

object, such line shall, in the absence of any direction to the contrary, be understood to be drawn from, to, or through the centre of such object, as nearly as the centre thereof can be ascertained : (20.) *Division of Counties, &c.*

- “ 4.—That every building through which or through any part whereof any boundary hereby established shall pass, shall be considered as within such boundary: provided always, that if the boundaries of any two or more of the cities, boroughs, and places whereof the contents and boundaries are hereby settled and described shall pass through the same building or any part thereof, such building shall be considered as within that one of such two or more of the said cities, boroughs, and places which was before the passing of the hereinbefore recited act entitled to return members or a member to serve in parliament, or if neither or more than one of such two or more of the said cities, boroughs, and places shall have been so entitled, then within that one of them whereof the area is hereby established is the smallest :
- “ 5.—That whenever any boundary by this act established is said to pass along any other boundary, or along any road, lane, path, river, stream, canal, drain, brook, or ditch, the middle (as nearly as the same can be ascertained) of such other boundary, or of such road, lane, path, river, stream, canal, drain, brook, or ditch, shall be understood :
- “ 6.—That the middle of any road or lane shall be understood as the middle of the carriageway along the same :
- “ 7.—That when any boundary by this act established is said to proceed along a road, lane, path, river, stream, canal, or drain, from or to an object, such boundary shall be understood to proceed from or to that point in the middle of such road, lane, path, river, stream, canal, or drain from which the shortest line would be drawn to the centre of such object, as nearly as the centre thereof can be ascertained :
- “ 8.—That the point at which any fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch is said to cut, meet, join, cross, reach, or leave any fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch, shall be understood as that point at which a line passing along the middle of the fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch so cut, met, joined, crossed, reached, or left, would be intersected by a line drawn along the middle of the fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch so cutting, meeting, joining, crossing, reaching, or leaving, if such line were prolonged sufficiently far :
- “ 9.—That when a line is said to be drawn to a road, lane, river, stream, or canal, such line shall be considered as prolonged to the middle of such road, lane, river, stream, or canal :
- “ 10.—That by the words ‘sea’ and ‘sea-coast,’ shall be understood the low-water mark :
- “ 11.—That if any deficiency shall be found to exist in the line of any boundary described in the said schedule to this act annexed marked (O.), by reason of the intervention of any space between any two immediately consecutive points, such deficiency shall be supplied by a straight line to be drawn from the one to the other of such two immediately consecutive points.”

By sect. 37, “notwithstanding the generality of any description contained in the said schedule to this act annexed marked (O.), no city, borough, or place, the contents whereof are specified in such schedule, shall include any part of any parish, township, hamlet, chapelry, tithing, manor, or liberty which is detached from the main body of such parish, township, hamlet, chapelry, tithing, manor, or liberty, if, by reason of including such detached part, the boundary hereby established of such city, borough or place would not be continuous, unless such detached part shall, before the passing of this act, have formed part of such city, borough, or place for the

Detached parts of parishes, &c. and extra-parochial places.

(20.) *Division of Counties, &c.*

Misnomer not to vitiate, and the descriptions in schedule (O.) to be considered as existing on the 1st Oct. 1831.

purpose of the election of members to serve in parliament; but that all places, parochial or extra-parochial, which are surrounded by the contents of which any city, borough, or place is said in such schedule marked (O.) to consist, but for which no provision is made in such schedule (O.), shall be considered as included within such city, borough, or place, for the purpose of the election of members to serve in parliament."

By sect. 38, "no misnomer or inaccurate description contained in this act, or in any of the schedules hereto annexed, shall in anywise prevent or abridge the operation of this act with respect to the subject of such description, provided the same shall be so designated as to be commonly understood; and that for the purpose of identifying the descriptions contained in the said schedule (O.) with the subjects of such descriptions respectively, such descriptions shall, if now inapplicable, be held to apply to such subjects as they existed on the first day of October one thousand eight hundred and thirty-one."

SCHEDULES REFERRED TO BY THE 2 & 3 WIL. 4, c. 64.

Isolated Parts of Counties.

SCHEDULE (M.)

Counties to which the isolated Parts belong.	Parishes, Townships, &c. of which, or of Parts of which, the isolated Parts consist.	Counties in which the isolated Parts are locally situate.	Counties and Divisions to which it is intended that the isolated Parts should be annexed.
ENGLAND.			
Bedfordshire	Part of Studham parish, partly in Beachwood Park, in the county of Hertford	Hertfordshire	Hertfordshire.
Bedfordshire	Part of Ickleford parish	Hertfordshire	Hertfordshire.
Berkshire	Part of Great Barrington parish	Gloucestershire	Gloucestershire, Eastern Division.
Berkshire	Part of Inglesham parish	Wiltshire	Wiltshire, Northern Division.
Berkshire	Part of Langford parish	Oxfordshire	Oxfordshire.
Berkshire	Little Farringdon tithing	Oxfordshire	Oxfordshire.
Berkshire	Part of Shilton parish	Oxfordshire	Oxfordshire.
Buckinghamshire	Studley parish or hamlet, in the parish of Beckley	Oxfordshire	Oxfordshire.
Buckinghamshire	Caversfield parish	Oxfordshire	Oxfordshire.
Buckinghamshire	Part of Luffield Abbey, an extra-parochial place	Northamptonshire	Northamptonshire, Southern Division.
Cheshire	Part of Disley township, situate on the Derbyshire side of the River Goyt	Derbyshire	Cheshire, Northern Division.
Cornwall	A small part of the parish of St. Stephen by Saltash, on the eastern side of the river Tamar	Either in Devonshire or Cornwall	Devonshire, Southern Division.
Cornwall	Part of North Tamerton parish, east of the Tamar	Either in Devonshire or Cornwall	Cornwall, Eastern Division.
Derbyshire	A portion of Derbyshire, consisting of the parishes and places following, <i>i. e.</i> Measham Stretton in the Fields Willesley Part of Appleby Oakthorpe Chilcote Part of Donisthorpe	Leicestershire	Derbyshire, Southern Division.

Counties to which the isolated Parts belong.	Parishes, Townships, &c. of which, or of Parts of which, the isolated Parts consist.	Counties in which the isolated Parts are locally situate.	Counties and Divisions to which it is intended that the isolated Parts should be annexed.
Derbyshire .	Part of the parish of Ravenstone .	Leicestershire .	Derbyshire, Southern Division.
Derbyshire }	Part of the township of Packington . }	Leicestershire .	Derbyshire, Southern Division.
Derbyshire .	Part of Scropton township .	Staffordshire .	Staffordshire, Northern Division.
Derbyshire }	Part of Beard township, on the Cheshire side of the river Goyt . }	Derbyshire or Cheshire .	Derbyshire, Northern Division.
Devonshire .	Thorncomb parish .	Dorsetshire .	Dorsetshire.
Devonshire }	Part of Axminster parish, namely, Burhall Downs and Easthay . }	Dorsetshire .	Dorsetshire.
Devonshire .	Part of the parish of St. John .	Cornwall .	Cornwall, Eastern Division.
Devonshire .	North Petherwin parish .	Cornwall .	Devonshire, Northern Division.
Devonshire }	Part of Wirrington parish, west of the Tamar . }	Cornwall or Devonshire .	Devonshire, Northern Division.
Devonshire }	Part of the hamlet of Northcote, west of the Tamar . }	Cornwall or Devonshire .	Devonshire, Northern Division.
Devonshire }	Part of Bridgerule parish, west of the Tamar . }	Cornwall or Devon .	Devonshire, Northern Division.
Devonshire }	Part of Maker parish in the tithing of Vaultersholme . }	Cornwall .	Cornwall, Eastern Division.
Dorsetshire .	Stockland parish .	Devonshire .	Devonshire, Southern Division.
Dorsetshire .	Dallwood township .	Devonshire .	Devonshire, Southern Division.
Durham .	The district of Norhamshire .	Northumberland .	Northumberland, Northern Division.
Durham }	The district of Islandshire, including the Farne Islands and Monkhouse . }	Northumberland .	Northumberland, Northern Division.
Durham }	The parish of Bedlington or Bedlingtonshire . }	Northumberland .	Northumberland, Northern Division.
Durham }	The parish of Craike or Craikeshire . }	North Riding of Yorkshire .	North Riding of Yorkshire.
Gloucestershire .	Minety parish .	Wiltshire .	Wiltshire, Northern Division.
Gloucestershire .	Widford parish .	Oxfordshire .	Oxfordshire.
Gloucestershire .	Compton Parva parish .	Warwickshire .	Warwickshire, Southern Division.
Gloucestershire .	Sutton-under-Brails parish .	Warwickshire .	Warwickshire, Southern Division.
Gloucestershire .	Shennington parish .	Oxfordshire .	Oxfordshire.
Gloucestershire .	Part of Lea parish .	Herefordshire .	Herefordshire.
Herefordshire .	Farloe chapelry .	Shropshire .	Shropshire, Southern Division.
Herefordshire .	Rochford parish .	Worcestershire .	Worcestershire, Western Division.
Herefordshire .	Foothog township .	Between Monmouthshire and Breconshire .	Herefordshire.
Herefordshire .	Litton and Cascob township .	Radnorshire .	Radnorshire.
Herefordshire .	Bwlch hamlet .	Monmouthshire .	Monmouthshire.
Herefordshire .	Part of the parish of Trellick .	Monmouthshire .	Monmouthshire.
Hertfordshire .	Part of Coleshill hamlet .	Buckinghamshire .	Buckinghamshire.

Counties to which the isolated Parts belong.	Parishes, Townships, &c. of which, or of Parts of which, the isolated Parts consist.	Counties in which the isolated Parts are locally situate.	Counties and Divisions to which it is intended that the isolated Parts should be annexed.
Hertfordshire .	Part of Meppershall parish .	Bedfordshire .	Bedfordshire.
Huntingdonshire .	Part of Catworth township .	Northamptonshire {	Northamptonshire, Northern Division.
Huntingdonshire .	Swineshead parish .	Bedfordshire	Huntingdonshire.
Huntingdonshire .	Part of Everton parish .	Between Bedfordshire and Cambridgeshire .	Huntingdonshire.
Kent .	Part of Woolwich parish, north of the Thames .	Kent or Essex .	Kent, Western Division.
Monmouthshire .	Welsh Bicknor parish .	Herefordshire .	Herefordshire.
Oxfordshire .	Boycot township .	Buckinghamshire .	Buckinghamshire.
Oxfordshire .	Lillingstone Lovell parish .	Buckinghamshire .	Buckinghamshire.
Oxfordshire .	Hackhampstead chapelry .	Buckinghamshire .	Buckinghamshire.
Oxfordshire .	Great Lemhill Farm, part of Broughton Poggs parish .	Gloucestershire .	Gloucestershire, Eastern Division.
Shropshire .	Part of Hales Owen parish .	Bounded by Worcestershire and Staffordshire .	Worcestershire, Eastern Division.
Somersetshire .	Holwell parish, including Buckshaw tithing .	Dorsetshire .	Dorsetshire.
Hampshire .	North Ambersham and South Ambersham tithings in the parish of Steep .	Sussex .	Sussex, Western Division.
Staffordshire .	Broom parish .	Worcestershire .	Worcestershire, Eastern Division.
Staffordshire .	Clent parish .	Worcestershire .	Worcestershire, Eastern Division.
Sussex .	Part of Rogate tithing, being a farm called Rogate Bohunt Farm .	Hampshire .	Hampshire, Northern Division.
Warwickshire .	Tutnal and Copley hamlet .	Worcestershire .	Worcestershire, Eastern Division.
Warwickshire .	Stretton-upon Foss parish .	Between parts of Worcestershire and Gloucestershire .	Warwickshire, Southern Division.
Wiltshire .	Ilmington parish .		
Wiltshire .	Compton Scorpion hamlet .		
Wiltshire .	Whitchurch parish .		
Wiltshire .	Ditchford hamlet .		
Wiltshire .	Part of Wokingham parish .	Berkshire .	Berkshire.
Wiltshire .	Hinton tithing in Hurst parish .	Berkshire .	Berkshire.
Wiltshire .	Didnam tithing in Shinfield parish .	Berkshire .	Berkshire.
Wiltshire .	Swallowfield parish .	Berkshire .	Berkshire.
Wiltshire .	Kingswood parish .	Gloucestershire .	Gloucestershire, Western Division.
Wiltshire .	Poulton parish .	Gloucestershire .	Gloucestershire, Eastern Division.
Worcestershire .	Alderminster parish .		
	Tredington parish, including the following hamlets : .		
	Arinscot .		
	Blackwell .	Between Gloucestershire and Warwickshire .	Worcestershire, Eastern Division.
	Newbold and Tolton .		
	Darlingoscote and Longdon .		
	Shipston on Stour parish .		
	Tidmington chapelry .		
	Evenload parish .		

Counties to which the isolated Parts belong.	Parishes, Townships, &c. of which, or of Parts of which, the isolated Parts consist.	Counties in which the isolated Parts are locally situate.	Counties and Divisions to which it is intended that the isolated Parts should be annexed.
Worcestershire— (continued.)	Blockley parish, including the following hamlets : Northwich . . . Paxford . . . Draycott . . . Dorne . . . Ditchford . . . Aston Magna . . . Cutsdean or Cuddesden chapelry . . .	Between Gloucestershire and Warwickshire .	Worcestershire, Eastern Division.
Worcestershire	Icomb parish . . .	Between Gloucestershire and Oxfordshire .	Gloucestershire, Eastern Division.
Worcestershire	Dailsford parish . . .	Oxfordshire .	Worcestershire, Eastern Division.
Worcestershire	Oldborough parish . . .	Warwickshire .	Worcestershire, Eastern Division.
Worcestershire	Dudley parish . . .	Staffordshire .	Worcestershire, Eastern Division.
Worcestershire	Edvin Loach parish . . .	Herefordshire .	Worcestershire, Eastern Division.
Worcestershire	Warley Wigorn township .	Between parts of Staffordshire and Shropshire .	Worcestershire, Eastern Division.
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WALES :			
Caernarvonshire	The hundred of Creyddyn, Eirias township or hamlet	Denbighshire .	Caernarvonshire.
Caernarvonshire	Maenan . . .	Denbighshire .	Caernarvonshire.
Denbighshire	Carreghovah township	Between Shropshire and Montgomeryshire .	Montgomeryshire.
Flintshire	Part of the hundred of Maylor, consisting of the following parishes, townships, or places, or of parts thereof respectively : namely, Overton Foreign and Overton Villa . . . Knolton . . . Bangor . . . Erbistock . . . Worthenbury . . . Abenbury Vechan . . . Hanmer . . . Halghton . . . Willington . . . Iscoed . . . Bettisfield . . . Tybroughton . . . Penley . . . Bronington . . .	Bounded by the counties of Salop, Chester, and Denbigh .	Flintshire.

Counties to which the isolated Parts belong.	Parishes, Townships, &c. of which, or of Parts of which, the isolated Parts consist.	Counties in which the isolated Parts are locally situate.	Counties and Divisions to which it is intended that the isolated Parts should be annexed.
Flintshire .	Sundry other small plots of land in the following townships respectively; namely, Overton Villa . Overton Foreign . Bangor . Worthenbury . Sutton . Parts of Marford and Hoseley townships . Part of Hawarden township . Flat Holmes . Barry Island . Part of Glasbury parish .	Denbighshire .	Flintshire,
Flintshire .		Denbighshire .	Flintshire.
Flintshire .		Cheshire .	Flintshire.
Glamorganshire		In the Bristol Channel	Glamorganshire.
Glamorganshire		In the Bristol Channel	Glamorganshire.
Brecknockshire		Brecknockshire or Radnorshire }	Brecknockshire.

DIVISIONS AND POLLING PLACES.

SCHEDULE (N.)

Counties.	Divisions.	Polling Places.
ENGLAND :		
Bedfordshire		Bedford. Luton. Leighton. Amphill. Biggleswade. Sharnbrook.
Berkshire		Abingdon. Reading. Newbury. Wantage. Wokingham. Maidenhead. Great Faringdon. East Ilsley.
Buckinghamshire		Aylesbury. Buckingham. Newport Pagnel. Beaconsfield.
Cambridgeshire		Cambridge. Newmarket. Royston.
Isle of Ely		Ely. Wisbeach. Whittlesey.
Cheshire	Northern Division .	Knutsford. Stockport. Macclesfield. Runcorn.

Counties.	Divisions.	Polling Places.	(20.) Divisions and Polling Places.
Cheshire	Southern Division	Chester. Nantwich. Northwich. Sandbach. Birkenhead.	
Cornwall	Eastern Division	Bodmin. Launceston. Liskeard. Stratton. St. Austell.	
Cornwall	Western Division	Truro. Penzance. Helston. Redruth.	
Cumberland	Eastern Division	Carlisle. Brampton. Wigton. Penrith. Aldstone.	
Cumberland	Western Division	Cockermouth. Aspatria. Keswick. Bootle. Egremont. Bakewell.	
Derbyshire	Northern Division	Chesterfield. Chapel-en-le-Frith. Alfreton. Glossop.	
Derbyshire	Southern Division	Derby. Ashbourn. Wirksworth. Melbourn. Belper.	
Devonshire	Northern Division	South Molton. Collumpton. Barnstaple. Torrington. Holsworthy. Crediton.	
Devonshire	Southern Division	Exeter. Honiton. Newton Abbot. Kingsbridge. Plymouth. Tavistock. Okehampton.	
Dorsetshire		Dorchester. Wimborne. Wareham. Beaminster. Sherborne. Shaftesbury. Blandford. Chesilton.	
Durham	Northern Division	Durham. Sunderland. Lanchester. Wickham. Chester-le-Street. South Shields.	

(20.) Divisions
and Polling
Places.

Counties.	Divisions.	Polling Places.
Durham . . .	Southern Division .	{ Darlington. Stockton. Bishops Auckland. Stanhope. Middleton Teesdale. Barnard Castle. Sedgefield.
Essex . . .	Northern Division .	{ Braintree. Colchester. Saffron Walden. Thorpe. Chelmsford.
Essex . . .	Southern Division .	{ Billericay. Romford. Epping. Rochford. Maldon. .
Gloucestershire .	Eastern Division .	{ Gloucester. Stroud. Tewkesbury. Cirencester. Campden. Northleach. Cheltenham. Wotton-under-Edge. Newent.
Gloucestershire .	Western Division .	{ Newnham. Coleford. Sodbury. Thornbury. Dursley. Winchester. Alton. Andover.
Hampshire . . .	Northern Division .	{ Basingstoke. Kingsclere. Odiham. Petersfield. Bishops Waltham. Southampton. Fareham.
Hampshire . . .	Southern Division .	{ Lymington. Portsmouth. Ringwood. Romsey. Hereford. Leominster. Bromyard. Ledbury. Ross.
Herefordshire .		{ Kington. Hertford. Stevenage. Buntingford. Bishops Stortford. Hoddesdon. Hatfield. Hemel Hempstead.
Hertfordshire .		{ Huntingdon. Stilton.
Huntingdonshire .		

Counties.	Divisions.	Polling Places.	(20.) Divisions and Polling Places.
Kent . . .	Eastern Division .	Canterbury. Sittingbourne. Ashford. New Romney. Ramsgate. Maidstone. Bromley. Blackheath. Gravesend. Tonbridge. Cranbrooke.	
Kent . . .	Western Division .	Lancaster. Hawkeshead. Ulverston. Poulton. Preston. Burnley. Newton. Wigan.	
Lancashire . . .	Northern Division .	Manchester. Liverpool. Ormskirk. Rochdale. Loughborough. Melton Mowbray. Ashby-de-la-Zouch.	
Lancashire . . .	Southern Division .	Leicester. Hinckley. Market Harborough. Lincoln. Gainsborough. Epworth. Barton.	
Leicestershire . . .	Northern Division .	Brigg. Market Raisin. Great Grimsby. Louth. Spilsby. Horncastle.	
Leicestershire . . .	Southern Division .	Sleaford. Boston. Holbeach. Bourn. Donington. Navenby. Spalding. Grantham.	
Lincolnshire . . .	Parts of Lindsey .	Brentford. Endfield. King's Cross, or within half a mile thereof. Hammersmith. Bedfont. Edgware. Mile End. Uxbridge. Monmouth. Abergavenny. Usk.	
Lincolnshire . . .	Parts of Kesteven and Holland . . .	Newport. The Rock Inn, in the parish of Bedwelty.	
Middlesex.			
Monmouthshire.			

(20.) *Divisions
and Polling
Places.*

Counties.	Divisions.	Polling Places.
Norfolk . . .	Eastern Division .	{ Norwich. Yarmouth. Reepham. North Walsham. Long Stratton. Swaffham. Downham. Fakenham. Lynn Regis. Thetford. East Dereham.
Norfolk . . .	Western Division .	{ Kettering. Peterborough. Oundle. Wellingborough. Clipston. Northampton.
Northamptonshire .	Northern Division .	{ Daventry. Towcester. Brackley. Alnwick. Berwick. Wooler. Elsdon. Morpeth. Hexham.
Northamptonshire .	Southern Division .	{ Newcastle upon Tyne. Haltwhistle. Bellingham. Stamfordham.
Northumberland .	Northern Division .	{ Nottingham. Mansfield. East Retford. Newark upon Trent.
Northumberland .	Southern Division .	{ Bingham. Southwell. Oxford. Deddington. Witney. Nettlebed. Oakham.
Nottinghamshire .	Northern Division .	{ Shrewsbury. Oswestry. Whitchurch. Wellington.
Nottinghamshire .	Southern Division .	{ Church Stretton. Bridgnorth. Ludlow. Bishops Castle. Wenlock. Wells. Bath.
Oxfordshire . . .		{ Shepton Mallet. Bedminster. Axbridge. Wincanton.
Rutlandshire . . .		{ Taunton. Bridgwater. Ilchester. Williton.
Shropshire . . .	Northern Division .	
Shropshire . . .	Southern Division .	
Somersetshire . . .	Eastern Division .	
Somersetshire . . .	Western Division .	

Counties.	Divisions.	Polling Places.	(20.) Divisions and Polling Places.
Staffordshire	Northern Division	- Stafford. - Leek. - Newcastle under Lyme. - Cheadle. - Abbots Bromley.	
Staffordshire	Southern Division	- Walsall. - Lichfield. - Wolverhampton. - Penkridge. - Kings Swinford.	
Suffolk	Eastern Division	- Ipswich. - Needham. - Woodbridge. - Framlingham. - Saxmundham. - Halesworth. - Beccles.	
Suffolk	Western Division	- Bury St. Edmund's. - Wickham Brook. - Lavenham. - Stowmarket. - Botesdale. - Mildenhall. - Hadleigh.	
Surrey	Eastern Division	- Croydon. - Reigate. - Camberwell. - Kingston.	
Surrey	Western Division	- Guildford. - Dorking. - Chertsey.	
Sussex	Eastern Division	- Lewes. - East Grinstead. - Battle. - Mayfield.	
Sussex	Western Division	- Chichester. - Steyning. - Petworth. - Horsham. - Arundel.	
Warwickshire	Northern Division	- Coleshill. - Nuneaton. - Coventry. - Birmingham. - Dunchurch.	
Warwickshire	Southern Division	- Warwick. - Kineton. - Stratford. - Henley. - Southam.	
Westmoreland		- Appleby. - Kirkby-Stephen. - Shap. - Ambleside. - Kendal. - Kirkby-Lonsdale.	

(20.) *Divisions
and Polling
Places.*

Counties.	Divisions.	Polling Places.
Isle of Wight		{ Newport. West Cowes.
Wiltshire	Northern Division	{ Devizes. Melksham. Malmesbury. Swindon.
Wiltshire	Southern Division	{ Salisbury. Warminster. East Everley. Hindon.
Worcestershire	Eastern Division	{ Droitwich. Persore. Shipston. Stourbridge.
Worcestershire	Western Division	{ Worcester. Upton. Stourport. Tenbury.
Yorkshire	North Riding	{ York. Malton. Scarborough. Whitby. Stokesley. Guisborough. Romaldkirk. Richmond. Askrigg. Thirsk. Northallerton. Kirby Moor Side.
Yorkshire	East Riding	{ Beverley. Hull. Driffield. Pocklington. Bridlington. Howden. Hedon. Settrington.
Yorkshire	West Riding	{ Wakefield. Sheffield. Doncaster. Snaith. Huddersfield. Halifax. Bradford. Barnsley. Leeds. Keighley. Settle. Knaresborough. Skipton. Pately Bridge. Dent.

(20.) Divisions
and Polling
Places.

Counties.	Divisions.	Polling Places.
WALES:		
Anglesea		{ Beaumaris. Holyhead. Llangefni.
Brecknockshire		{ Brecon. Llandilo Vawr. Caermarthen.
Caermarthenshire		{ Llandovery. Newcastle Emlyn. Saint Clears. Llanelly. Llansawel.
Cardiganshire		{ Cardigan. Aberystwith. Lampeter. Tregaron.
Carnarvonshire		{ Carnarvon. Conway. Capel Cerrig. Pwllheli.
Denbighshire		{ Denbigh. Wrexham. Llanrwst. Llangollen. Ruthin.
Flintshire		{ Flint. Rhuddlan. Overton. Bridgend. Cardiff.
Glamorganshire		{ Swansea. Neath. Merthyr Tydvil. Harlech.
Merionethshire		{ Bala. Dolgelly. Towyn. Corwen.
Montgomeryshire		{ Montgomery. Llanidloes. Machynlleth. Idanfyllin. Llanvair.
Pembrokeshire		{ Haverfordwest. Pembroke. Narberth. Fishguard. Newport. Tenby. Mathry.
Radnorshire		{ New Radnor. Presteign. Rhaydr. Painscastle. Colwyn. Knighton. Pen-y-bont.

(20.) Divisions
and Polling
Places.

SCHEDULE (N. 2.)

Boroughs.	Polling Places.
New Shoreham	{ New Shoreham.
	{ Cowfold.
Cricklade	{ Cricklade.
	{ Brinkworth.
Aylesbury	{ Swindon.
	{ Aylesbury.
East Retford	{ East Retford.
	{ Ollerton.
	{ Worksop.
	{ Gringley-on-the-Hill.

SCHEDULE (O.)

1.—COUNTY OF BEDFORD.

Bedford.—The old borough of Bedford.

2.—COUNTY OF BERKS.

Abingdon.—The old borough of Abingdon.

Reading.—The old borough of Reading.

Wallingford.—The old borough of Wallingford ; the several parishes of Brightwell Sotwell, North Moreton, South Moreton, Bensington, Crowmarsh, and Newnham Murren ; the liberty of Clapcot, and the extra-parochial precinct of the Castle ; and also all such parts of the several parishes of Cholsey, Aston Tirrel, and Aston Upthorpe as are situate on that side of the line next hereinafter described, on which the town of Wallingford lies ; (that is to say,)

From Blewberry, along the road called “The Ickniel Way,” to the point on King’s Standing Hill, at which the same meets the boundary of the parish of Cholsey ; thence, eastward, along the boundary of the parish of Cholsey to the point at which the same reaches the river Thames.

New Windsor.—The old borough of New Windsor, the lower ward of the Castle, and so much of the parish of Clewer as is situated to the east of the following boundary ; (that is to say,)

From the point at which the Goswell ditch joins the river Thames, along the Goswell ditch to the point at which the same meets Clewer lane ; thence, westward, along Clewer lane to a point twenty-five yards distant from the point last described : thence in a straight line to the north-western corner of the enclosure wall of the Cavalry Barracks ; thence along the western enclosure wall of the Cavalry Barracks to the point at which the same cuts the boundary of the parish of New Windsor.

3.—COUNTY OF BUCKINGHAM.

Buckingham.—The several parishes of Buckingham, Maidsmorton, Thornborough, Padbury, Hillesden, Preston Bissett, Tingewick, and Radclive-cum-Chackmore.

Great Marlow.—The several parishes of Great Marlow, Little Marlow, Medmenham, and Bisham.

Chipping Wycombe.—The parish of Chipping Wycombe.

4.—COUNTY OF CAMBRIDGE.

Cambridge.—The old borough of Cambridge.

5.—COUNTY OF CHESTER.

Northern Division.

Macclesfield.—From the point at which the boundary of the borough of Macclesfield meets the Leek road near Moss Pool, southward, along the Leek road to the bridge over the Macclesfield canal; thence, eastward, along the Macclesfield canal to the point at which the same meets the boundary of the borough; thence, eastward, along the boundary of the borough to the point at which the same is again met by the Macclesfield canal; thence, northward, along the Macclesfield canal to the point at which the same crosses Shore's Clough brook; thence, westward, along Shore's Clough brook to the point at which the same meets the boundary of the township of Hurdsfield; thence, southward, along the boundary of the township of Hurdsfield to the point at which the same meets the boundary of the borough of Macclesfield; thence, westward, along the boundary of the borough of Macclesfield to the point first described.

Stockport.—The township of Stockport, and the respective hamlets of Brinksway and Edgeley, together with those parts of the respective townships of Brinnington and Heaton Norris which are included within the following boundaries respectively; (that is to say,)

Brinnington.—From the point at which the boundary of the township of Stockport would be cut by a straight line to be drawn from the bridge over the river Mersey on the Bredbury and Hyde road to the Corn-mill in the township of Heaton Norris, between the Manchester and Stockport canal and the Reddish road, and now in the occupation of Mr. Walmsley, along such straight line to the point at which the same cuts the river Tame; thence along the river Tame to the point at which the same meets the boundary of the township of Stockport; thence, eastward, along the boundary of the township of Stockport to the point first described.

Heaton Norris.—From the point at which the boundary of the township of Heaton Norris meets the Manchester road, between a public-house called the Ash, and Danby lane, along the Manchester road to the point at which the same meets Danby lane; thence along Danby lane to the point at which the same is cut by a straight line drawn thereto from the first mile-stone on the Altringham road through the western angle of the public-house called the Heaton Norris Club House; thence along the said straight line to the point at which the same meets the southern boundary of the township of Heaton Norris; thence, eastward, along the boundary of the township of Heaton Norris to the point first described.

Southern Division.

Chester.—The old city of Chester, and also the space included within the following boundary; (that is to say,)

From the second city boundary stone in Boughton ford mead, and on the eastern bank of the river Dee, in a straight line, to the western extremity of a lane which leads from Stock lane to Boughton heath; thence in a straight line to the southern extremity of Heath lane; thence along Heath lane to the point at which the same joins the Christleton road; thence along the Christleton road to the point at which the same is joined by New lane; thence along New lane to the point at which the same meets Filkin lane; thence along Filkin lane to the point at which the same joins, at Asp Tree turnpike gate, the Tarvin road; thence along the Tarvin road to Tarvin bridge; thence along the Nantwich canal to the point at which the same meets the old city boundary; thence, southward, along the old city boundary to the second city boundary stone aforesaid.

6.—COUNTY OF CORNWALL.

Eastern Division.

Bodmin.—The several parishes of Bodmin, Lanivet, Lanhydrock, and Helland.

Launceston.—The old borough of Launceston and the parish of St. Stephen, and all such parts of the several parishes of Lawhitton, St. Thomas the Apostle, and South Petherwin as are without the old borough of Launceston.

Liskeard.—The parish of Liskeard, and also all such parts of the old borough of Liskeard as are without the parish of Liskeard.

Western Division.

Helston.—The old borough of Helston, the parish of Sithney, and also the space included within the following boundary; (that is to say,)

From Coverack bridge, over the river Loo, in a straight line across the Wendron road to the western extremity of a lane leading by Wheal Ann to Graham mine; thence along the said lane to the point at which the same meets a small stream; thence, southward, along the said stream to the point at which the same meets a lane leading from Wendron to Trecoose and Constantine; thence, eastward, along the said lane to Trecoose and Constantine, to the point at which the same meets the boundary of the parish of Wendron; thence, southward, along the boundary of the parish of Wendron to Coverack bridge.

St. Ives.—The old borough of St. Ives, and the respective parishes of Lelant and Towednack.

Penryn and Falmouth.—From the point, on the north of Penryn, at which the boundary of the old borough leaves the boundary of the parish of Mylor, westward, along the boundary of the old borough to the point at which the same meets the road from Penryn to Helston; thence in a straight line to the point called Hill Head, at which the road to Penryn from Budock joins the road to Penryn from Constantine; thence in a straight line to the nearest point of the boundary of the parish of Falmouth; thence, southward, along the boundary of the parish of Falmouth to the point at which the same meets the boundary of the detached portion of the parish of Budock; thence in a straight line to the northern point at which the boundary of the detached portion of the parish of Budock leaves the boundary of the parish of Falmouth; thence, westward, along the sea-cost to the point at which the same is met by the boundary of the parish of

St. Gluvias; thence, eastward, along the boundary of the parish of St. Gluvias to the point first described. (20.) *Divisions and Polling Places.*

Truro.—From Bosvigo bridge over the Kenwyn river, and on the boundary of the old borough, along Bosvigo lane, to the point at which the same joins the Redruth road; thence along the Redruth road to the point at which the same is joined, near Chapel-Hill gate, by Green lane; thence along Green lane to the point at which the same joins the Falmouth road; thence along an Occupation road leading through Newham Farm land to the point at which such Occupation road meets Newham Farm lane; thence along a fence which proceeds from Newham-Farm lane, and is the south-western boundary of two fields respectively called Great Beef close and Little Beef close, to the point at which such fence meets the north-western fence of a field called Bramble close; thence, eastward, along the fence of Bramble close to the point at which the same reaches the shore of Calenick creek; thence along the shore of Calenick creek to Lower Newham wharf; thence in a straight line across the Truro and Falmouth river to the south-eastern extremity of Sunny Corner wharf; thence in a straight line to Sunny Corner; thence in a straight line to the point at which Trenack lane would be cut by a straight line to be drawn from the eastern extremity of Newham Farm lane to the point called Hill Head, at which St. Clement's lane meets the St. Austell old turnpike road; thence in a straight line to Mitchell Hill gate, on the old London road; thence in a straight line to the point at which the boundary of the old borough would be cut by a straight line to be drawn from Mitchell Hill gate to Kenwyn church; thence, northward, along the boundary of the old borough to Bosvigo bridge.

7.—COUNTY OF CUMBERLAND.

Eastern Division.

Carlisle.—The ancient city of Carlisle, and the respective townships of Botchergate and Rickergate, and also all such part of the township of Caldewgate as is comprised within the boundary hereinafter described; (that is to say.)

From the bridge over the river Caldew uniting the township of Caldewgate with the old city of Carlisle, southward, along the river Caldew to the point at which the same leaves the boundary of the township of Caldewgate; thence, westward, along the boundary of the township of Caldewgate to the point at which the road from the Kell Houses to Carlisle joins the Wigton road; thence in a straight line to the point at which the Bye-road from Stainton, over the Summer House ford in the river Eden, and across the Canal from the Solway to Carlisle, meets the road from Great and Little Orton to Carlisle at a place called New Town; thence along the said road from Stainton to the point at which the same reaches the Summer House ford; thence along the boundary of the township of Caldewgate to the bridge first described.

Western Division.

Cockermouth.—The several townships of Cockermouth, Eaglesfield, Brigham, Papcastle, and Bridekirk; and also that detached portion of the township of Dovenby which lies between the respective townships of Papcastle, Bridekirk, and Cockermouth.

Whitehaven.—From the point on the sea coast, north of Whitehaven, at which the boundary of the township of Preston Quarter meets the boundary of the township of Moresby, eastward, along the boundary of the township of Preston Quarter, to the point at which the stream which flows through the village of Hensingham falls into the Poe Beck; thence in a straight line to the point on the sea coast at which the boundary of the township of Preston meets the boundary of the township of Sandwith; thence along the sea coast to the point first described.

8.—COUNTY OF DERBY.

*Southern Division.**Derby.*—The old borough of Derby.

9.—COUNTY OF DEVON.

Northern Division.

Barnstaple.—From the new bridge over Braddiford water, on the New Braunton road, along the hedge which is the eastern boundary of the East Pillow Marsh field, to the point at which the same cuts Poleshill lane; thence along Poleshill lane to the point at which the same meets Hall's Mill lane; thence along Hall's Mill lane to the point at which the same meets the Mill Leat; thence along the Mill Leat to the point at which the same meets Shearford lane; thence along Shearford lane to the point at which the same joins the Roborough road; thence along the Roborough road to the point at which the same is met by Smoky House lane; thence along Smoky House lane to the point at which the same is cut by a hedge which divides the field called "Great Mill Close" from the field called "Little Mill Close;" thence along the last-mentioned hedge, and in a line in continuation of the direction thereof, to the point at which such line cuts the river Yeo; thence, eastward, along the boundary of the old borough of Barnstaple to the point at which the same meets, in Cooney Cut, the south-eastern fence of a field called "Ham;" thence along the last-mentioned fence to the point at which the same cuts Land Key road; thence in a straight line to the point on Rumson hill at which Windy Ash lane meets the Brindon cross road; thence along Windy Ash lane to the point at which Wood Street Water crosses the same; thence along Wood Street Water to the point at which the same joins the river Taw; thence along the river Taw to the point at which the same is joined by the river Yeo; thence along the river Yeo to the Swing bridge on the new Braunton road; thence along the new Braunton road to the new bridge first described.

Tiverton.—The parish of Tiverton.*Southern Division.**Ashburton.*—The parish of Ashburton.

Dartmouth.—From the point on the sea coast at which the boundary of the parish of Townstall meets the boundary of the parish of Stoke Fleming, northward, along the boundary of the parish of Townstall, to the point at which the same meets the Stoke road; thence along the Stoke road, passing Swallaton cross and Swallaton gate, to the point at which the Stoke road meets the Milton road; thence along the Milton road to the point at which the same is met by the boundary of the parish of Townstall; thence, westward, along the boundary of the parish of Townstall to the point at which the same reaches old Mill Creek; thence along the low-water mark to the point first described.

Devonport.—The parish of Stoke Damerill, and the township of Stonehouse.

Exeter.—From the turnpike gate on the Morton road, southward, along Cowick lane to the point at which the same meets Stone lane; thence along Stone lane to the point at which the same meets the road from Exeter to Alphington; thence, southward, along the road from Exeter to Alphington to the point at which the same is joined by Marsh Barton lane; thence along Marsh Barton lane to the point at which the same reaches the western branch of the river Exe; thence in a straight line to the point at which

Abbey lane meets the eastern branch of the river Exe ; thence, southward, (20.) *Divisions and Polling Places.* along the Leat to the point at which the same is joined by the brook which runs down through East Wonford ; thence along the said brook to the point at which the same crosses the old Stoke and Tiverton road near the road to Mincing Lake farm ; thence along the Old Stoke and Tiverton road to the point at which the same meets the boundary of the county of the city ; thence, northward, along the boundary of the county of the city to the point near Foxhays at which a branch of the river Exe, flowing through Exwick, joins the main stream thereof ; thence in a straight line to the point at which the road from Exwick to the turnpike gate on the Morton road is joined by a road leading from Foxhays to Cleave ; thence along the said road from Exwick to the turnpike gate on the Morton road to the point at which the same reaches such turnpike gate.

Honiton.—The parish of Honiton.

Plymouth.—From the north-eastern boundary stone in a straight line to the nearest point of the line of the embankment ; thence, southward, along the line of the embankment to the point at which the same meets the boundary of the old borough ; thence, southward, along the boundary of the old borough to the point first described.

Tavistock.—The parish of Tavistock, except the manor of Cudliptown.

Totnes.—The parish of Totnes, and the manor of Bridgetown.

10.—COUNTY OF DORSET.

Bridport.—From the toll bar on the Exeter road in a straight line to the northern extremity of the fence which separates the field called “Marland Five Acres” from the field called “Higher Girtups and Dogholes ;” thence along the western fence of the field Higher Girtups and Dogholes to the point at which the same reaches a lane leading into Mead lane ; thence along the said lane leading into Mead lane to the point at which the same reaches Mead lane ; thence along Mead lane to the point at which the same joins the Chard road ; thence, northward, along the Chard road to the point at which the same is joined by the first lane on the right, called “Green lane ;” thence in a straight line to Allington Mill ; thence in a straight line to the point at which Coneygere lane joins the Pymore road ; thence along Coneygere lane to the point at which the same joins the Beaminster road ; thence in a straight line to the bridge over the river Asher close by the Flood houses ; thence along the river Asher to the point at which the same would be cut by a straight line to be drawn from the eastern extremity of Coneygere lane to the turnpike gate on the Dorchester road ; thence along the said straight line to the turnpike gate on the Dorchester road ; thence, southward, along the Dorchester road to the point at which the same is joined by Bothenhampton lane ; thence along Bothenhampton lane to the point at which the same is met by the stream which forms the boundary between the respective parishes of Walditch and Bothenhampton ; thence along the said stream to the point at which the same falls into the river Asher ; thence down the river Asher (following the easternmost branch thereof at the points at which the same divides into two branches) to Squibs bridge ; thence in a straight line to the south-eastern corner of Keemy cottage on the Bothenhampton road ; thence in a straight line to the eastern extremity of Wonderwell lane ; thence, westward, along Wonderwell lane to the point at which the same joins the Burton Bradstock road ; thence, southward, along the Burton Bradstock road to Wich gate ; thence in a straight line through the Bombardier’s house to the sea coast ; thence along the sea coast to the eastern extremity of West Cliff ; thence, northward, along West Cliff, and along the western boundary of the ship-yard of Messrs. Matthews and Company, to the point at which the same meets the boundary of the field called “Pitfield Marsh ;” thence, northward, along the boundary of Pitfield Marsh to the point at which the same meets the river Brit at Ire Pool ; thence up the river Brit to the point at which the same is joined by

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the stream which forms the boundary between the respective parishes of Symondsbury and Allington ; thence along the last-mentioned stream to the point at which the same meets the fence which runs down thereto from the toll bar at the Exeter road ; thence along the last-mentioned fence to the toll bar on the Exeter road.

Dorchester.—From the second or middle bridge on the Sherborne road, along the northern branch of the river Frome, passing under Grey's bridge, to the point at which such northern branch is met, near Stanton's cloth factory, by the boundary of the parish of Fordington ; thence, southward, along the boundary of the parish of Fordington to the point at which the same meets the Wareham road ; thence, westward, along the Wareham road to the turnpike gate ; thence in a straight line to the centre of the barrow called "Two Barrows ;" thence in a straight line to the centre of the amphitheatre called Maumbury Ring ; thence in a straight line to the centre of the barrow called Lawrence barrow, near the Exeter road ; thence in a straight line to the south-western corner of the barrack wall ; thence, northward, along the barrack wall and palisade to the point at which such palisade meets the southern branch of the river Frome ; thence in a straight line to the second or middle bridge on the Sherborne road.

Lyme Regis.—The respective parishes of Lyme Regis and Charmouth.

Poole.—The county of the town of Poole, the parish of Hamworthy, and the respective tithings of Parkstone and Longfleet.

Shaftesbury.—The old borough of Shaftesbury ; the several out-parishes of Holy Trinity, St. James, and St. Peter ; the several parishes of Cann, St. Rombald, Motcomb, East Stower, Stower Provost, Todbere, Melbury Abbas, Compton Abbas, Dowhead St. Mary, and St. Margaret's Marsh ; and the chapelry of Hartgrove.

Wareham.—The old borough of Wareham ; the parishes of Corfe Castle and Bere Regis ; the several out-parishes of Lady St. Mary, Holy Trinity, and St. Martin ; and the chapelry of Arne ; that part of the parish of East Stoke which adjoins the eastern boundary of the old borough of Wareham ; and also such part of the parish of East Morden as is comprised within the following boundary ; (that is to say,)

From the point at which the boundary of the parish of East Morden meets the southern boundary of Morden park wood, southward, along the boundary of Morden park wood, to the point at which the same meets the Sherford lake ; thence, eastward, along the Sherford lake to the point at which the same meets the boundary of the parish of East Morden ; thence, southward, along the boundary of the parish of East Morden to the point first described.

Weymouth and Melcombe Regis.—From the old sluice on the Wareham road in a straight line to the point at which the northern wall of the old barrack field meets the Dorchester road ; thence along the said northern wall, and in a line in the direction thereof, to the point at which such line meets the boundary of the old borough ; thence, northward, along the boundary of the old borough to the point at which the same meets the Upper Wyke road ; thence, westward, along the Upper Wyke road to the point at which the same is joined by a cross road leading to the lower Wyke road, otherwise called Buxton's lane ; thence along the said cross road to the point at which the same joins the said lower Wyke road ; thence along the said lower Wyke road to the point at which the same joins the Sandsfoot Castle road ; thence, northward, along the Sandsfoot Castle road to the point at which the same is met by the footpath leading by Lovel's farm to Bingleves ; thence along the said footpath to the point at which the same reaches the edge of the cliff at Bingleves ; thence along the sea coast to the old sluice aforesaid.

11.—COUNTY OF DURHAM.

Northern Division.

Durham.—From Shincliffe bridge over the river Wear, on the Stockton road, along the Stockton road, to the point at which the same is met by a lane leading into the Darlington road; thence along the said lane to the point at which the same joins the Darlington road; thence along the Darlington road to the point at which the same is met by Potter's lane; thence along Potter's lane to the point at which the same meets Quarry Head lane; thence along Quarry Head lane to the point at which the same meets Margery lane; thence along Margery lane to the point at which the same meets Flass lane; thence along Flass lane to the point at which the same meets a lane leading into the newly cut turnpike road which forms the commencement of the Newcastle road; thence along the last-mentioned lane to the point at which the same joins the said newly cut road; thence, northward, along the said newly cut road to the point at which the same joins the old line of the Newcastle road; thence in a straight line through the northernmost of the two out-buildings attached to Kepier's Hospital to the river Wear; thence along the river Wear to the point at which the same meets Kepier lane; thence along Kepier lane, passing under the old arches of the Hospital, to the point at which the same lane is joined, on the south-west of High Grange farm, by a lane leading into the Loaning Head road; thence along the last-mentioned lane, crossing the Sunderland road, to the point at which the same lane joins the Loaning Head road; thence along the Loaning Head road to the point at which the same is met by a beck running close to the north of Pellaw wood and to the south of Gilesgate church; thence along the said beck to the point at which the same falls into the river Wear; thence along the river Wear to Shincliffe bridge.

Gateshead.—The parish of Gateshead, and also all such part of the chapelry of Heworth in the parish of Jarrow as is situated to the west of a straight line to be drawn from Kirton tollgate house to Blue Quarry mill, and prolonged each way to the boundary of the parish of Gateshead.

South Shields.—The respective townships of South Shields and Westoe.

Sunderland.—The parish of Sunderland, and the several townships of Bishop Wearmouth, Bishop Wearmouth Panns, Monk Wearmouth, Monk Wearmouth Shore, and Southwick.

12.—COUNTY OF ESSEX.

Northern Division.

Colchester.—The old borough of Colchester.

Harwich.—The old borough of Harwich.

Southern Division.

Maldon.—The old borough of Maldon, and the parish of Heybridge.

13.—COUNTY OF GLOUCESTER.

Eastern Division.

Cheltenham.—The parish of Cheltenham.

Cirencester.—The parish of Cirencester.

Gloucester.—From the old city boundary stone on the western side of the lane called Castle lane, leading from Westgate street to the county gaol,

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northward, along the old city boundary to the boundary stone, south of the London road, which marks the easternmost point of the old city boundary; thence in a straight line through the eastern corner of the mill upon the river Twiver, between the old city boundary and the tramroad from the Gloucester and Berkeley canal to Cheltenham, to the said tramroad; thence along the said tramroad to the point at which the same is met by Barton lane; thence along Barton lane to the point at which the same crosses the Sud brook; thence along the Sud brook to the point at which the same falls into the Gloucester and Berkeley canal; thence along the Gloucester and Berkeley canal to the point at which the same is met by the old city boundary; thence, westward, along the old city boundary to the point first described.

Stroud.—The several parishes of Stroud, Bisley, Painswick, Pitchcomb, Randwick, Stonehouse, Leonard Stanley, Kings Stanley, Rodborough, Minchinhampton, Woodchester, Avening, and Horsley, except that part of the parish of Leonard Stanley which is called Lorrige's farm, and is surrounded by the parish of Berkeley.

Tewkesbury.—The parish of Tewkesbury.

14.—COUNTY OF HANTS.

Northern Division.

Andover.—The respective parishes of Andover and Knights Enham, and the tithing of Foxcot.

Petersfield.—The old borough of Petersfield, and the tithing of Sheet; the several parishes of Buriton, Lyss, and Froxfield; the several tithings of Ramsden, Langrish, and Oxenbourn, in the parish of East Meon; and also the parish of Steep, except the respective tithings of North and South Ambersham.

Winchester.—From St. Winnal's church in a straight line to the cottage on the new Alresford road which is north-west of the white house on St. Giles's hill; thence in a straight line to the turnpike gate at Barr End; thence in a straight line to the point at which the Gosport road joins the Southampton road; thence in a straight line to the point at which an angle is made in the northern bank of the lane leading from St. Cross to Compton down, perpendicularly above the deep hollow in the said lane; thence in a straight line to the Cock lane turnpike gate; thence in a straight line to the Three Horse Shoes public-house on the Week road; thence in a straight line to the house on the Andover road which is immediately north-west of the point at which the boundary of the city of Winchester crosses the same road; thence in a straight line to the south-eastern corner of the fir plantation on the western side of the Basingstoke road; thence in a straight line to St. Winnal's church.

Southern Division.

Christchurch.—The parish of Christchurch, and the chapelry of Holdenhurst, except such part of the tithing of Hurn in the parish of Christchurch as is situated to the north of the following boundary; (that is to say,)

From the point at which the western boundary of the parish of Christchurch crosses the road from Dudsbury to Hurn bridge in a straight line to the south-western corner of Merritown common; thence along the southern boundary of Merritown common and of Hurn common to the point at which the southern boundary of Hurn common reaches the Moor's river; thence in a straight line to the southern boundary post of the parish of Christchurch on the Ringwood road, close by Fillybrook plantation.

Lymington.—The parish of Lymington, and also such part of the parish of Boldre as is comprised within the following boundary; (that is to say,)

From East-end bridge, on the eastern boundary of the parish of Boldre, in a straight line through Boldre church to the western bank of Lymington

river; thence, southward, along the western bank of Lymington river to the point at which the same meets the boundary of the parish of Boldre; thence, southward, along the boundary of the parish of Boldre to East-end bridge aforesaid. (20.) *Divisions and Polling Places.*

Portsmouth.—The old borough of Portsmouth, and the parish of Portsea.

Southampton.—The town and county of the town of Southampton.

15.—COUNTY OF HEREFORD.

Hereford.—The whole space contained within the boundary of the liberties of the city of Hereford, including Castle Green.

Leominster.—The parish of Leominster.

16.—COUNTY OF HERTFORD.

St. Albans.—From the turnpike gate on the London road east of Saint Albans, called Saint Albans gate, in a straight line to the point at which the boundary of the old borough crosses the river at the bottom of the Cotton Mill lane; thence, southward, along the boundary of the old borough to the point at which the Western boundary of the parish of St. Alban leaves the river; thence in a straight line, through the south-eastern corner of St. Michael's churchyard, to the Hempstead road; thence, northward, along the Hempstead road to the point at which the same meets the road leading to Gorehambury, formerly the Redbourn road; thence in a straight line to the western extremity of the tongue of land in the river just above Kingsbury fishpond; thence in a straight line to the side bar belonging to Kingsbury turnpike gate, by the side of the new Redbourn road; thence, eastward, in a straight line to the point at which the boundary of the old borough meets Luton lane; thence, eastward, along the boundary of the old borough to the point at which the same crosses Sweetbriar lane; thence in a straight line to St. Albans turnpike gate aforesaid.

Hertford.—From the corporation post at the bottom of Port Hill, along the Bengeo road to the point at which the same is cut by the northern fence of Port Hill field; thence along the northern and western fences of Port Hill field to the point at which such western fence cuts the Mole Wood Mill road; thence in a straight line through Sele Farm bridge to the Stevenage road; thence in a straight line to the point at which the Hertingfordbury road is crossed by the boundary of the out-borough of Hertford; thence, southward, along the boundary of the out-borough of Hertford to the corporation post at the bottom of Port Hill.

17.—COUNTY OF HUNTINGDON.

Huntingdon.—The old borough of Huntingdon, and the parish of Godmanchester.

18.—COUNTY OF KENT.

Eastern Division.

Canterbury.—From the westernmost point, near St. Jacob's, at which the boundary of the city liberties meets the Ashford road, in a straight line to the point at which the respective boundaries of the parishes of Harbledown, St. Dunstan, and Holy Cross Westgate meet; thence, northward, along the eastern boundary of the parish of Harbledown to the point at which the same turns north-westward near the Whitstable road; thence in a straight line, in the direction of St. Stephen's church, to the point at which such

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straight line cuts the boundary of the parish of St. Stephen; thence, eastward, along the boundary of the parish of St. Stephen to the point at which the same meets the boundary of the parish of Holy Cross Westgate; thence in a straight line, through the point at which the road to St. Stephen's church meets the road to Sturry, to the nearest branch of the river Stour; thence along the said branch of the river Stour to the corporation stone, number 5; thence, eastward, along the boundary of the city liberties, including the whole of the borough of Longport, to the point first described.

Dover.—From the jetty, along the boundary of the liberties of the town and port of Dover, on the eastern side of the castle, and through the parish of Charlton, to the boundary stone at which the boundary of the said liberties meets the boundary of the parish of Buckland in Back lane; thence along Back lane to the point at which the same meets the road leading down to Crabbe turnpike gate on the London road; thence in a straight line, in a westerly direction, to the point at which the boundary of the parish of Buckland crosses the London road; thence along the boundary of the parish of Buckland to the point at which the same crosses the river; thence in a straight line to the point at which the boundary of the parish of Buckland meets the road leading to Combe farm; thence along the boundary of the parish of Buckland to the point at which the boundary of the parish of Hougham is intersected by the boundary of the liberties aforesaid; thence along the boundary of the said liberties to the sea coast; thence along the sea coast to the jetty.

Hythe.—The old borough of Hythe; the liberties of the town of Folkstone; and the several parishes of West Hythe, Saltwood, Cheriton, Folkstone, and Newington, except that detached part of the parish of Newington called Marwood Land.

Sandwich.—The several parishes of St. Mary, St. Peter, and St. Clement; and the extra-parochial precinct of St. Bartholomew, Sandwich; the parish of Deal; and the parish of Walmer.

Western Division.

Chatham.—From the easternmost point at which the boundary of the city of Rochester meets the right bank of the river Medway, southward, along the boundary of the city of Rochester to the boundary stone of the said city marked 5; thence in a straight line to the windmill in the parish of Chatham on the top of Chatham Hill; thence in a straight line to the oil windmill in the parish of Gillingham, between the village of Gillingham and the fortifications; thence in a straight line through Gillingham fort to the right bank of the river Medway; thence along the right bank of the river Medway to the point first described.

Greenwich.—From the point at which the Royal Arsenal canal at Woolwich joins the river Thames, along the said canal to the southern extremity thereof; thence in a straight line to the south-western corner of the ordnance storekeeper's house; thence in a straight line, in the direction of a stile in the footpath from Woolwich to Plumstead common, over Sand Hill, to the boundary of the parish of Woolwich; thence, southward, along the boundary of the parish of Woolwich to the point at which the same meets the boundary of the parish of Charlton; thence, westward, along the boundary of the parish of Charlton to the point at which the same turns southward near the Dover road; thence along the Dover road to the nearest point of the boundary of the parish of Greenwich; thence, westward, along the boundary of the parish of Greenwich to the point at which the same turns abruptly to the south, close by the Dover road; thence in a straight line, in a westerly direction, to the nearest point of the boundary of the parish of Greenwich; thence, westward, along the boundary of the parish of Greenwich to the point at which the same meets the boundary of the parish of St. Paul Deptford; thence, southward, along the boundary of the parish of St. Paul Deptford to the point at which the same meets the river Thames; thence along the river Thames to the point first described.

Maidstone.—The old borough of Maidstone.

Rochester.—The whole space comprised within the boundaries of the liberties of the old city of Rochester, and also such parts of the respective parishes of Strood and Frindsbury as are situated between the left bank of the river Medway and the boundary hereafter described; (that is to say,) (20.) *Divisions and Polling Places.*

From the entrance from the river Medway of the Thames and Medway canal, along a footpath which leads up the hill towards Upnor, to the point (on the top of the hill) at which the same is met by a road or path leading towards Frindsbury church; thence along such road or path to the point at which the same joins Parsonage lane; thence along Parsonage lane to the point at which the same joins the road from Frindsbury to Hoo; thence in a straight line to the northernmost angle of the boundary of the parish of Strood; thence, westward, along the boundary of the parish of Strood to the point at which the same meets the London road; thence towards Rochester along the London road to the point at which the same is joined by the road from the Three Crouches; thence in a straight line to the point at which the left bank of the river Medway would be cut by a straight line to be drawn from the point last described to Fort Clarence.

19.—COUNTY OF LANCASTER.

Northern Division.

Blackburn.—The township of Blackburn.

Clitheroe.—The respective chapelries of Downham and Clitheroe; and the four townships of Whalley, Wiswall, Pendleton, and Henshorn, and Little Mitton and Colcoats.

Lancaster.—From the point on the river Lune at which the respective boundaries of the townships of Lancaster, Skerton, and Heaton-with Oxcliffe meet, westward, along the boundary of the township of Lancaster to the point at which the respective boundaries of the township of Lancaster, Bulk, and Quernmore meet; thence in a straight line to the aqueduct bridge over the Caton road; thence, northward, along the canal from Preston to Kendal to the fourth bridge over the same from the aqueduct; thence in a straight line to the point at which Bracken lane meets Scale lane; thence along Scale lane to the point at which the same reaches the river Lune; thence along the river Lune to the point first described.

Preston.—The old borough of Preston, and the township of Fishwick.

Southern Division.

Ashton-under-Lyne.—The whole space over which the provisions of an act passed in the seventh and eighth years of the reign of his late Majesty King George the Fourth, and intituled "An Act for lighting, cleansing, watching, and otherwise improving the town of Ashton-under-Lyne in the county Palatine of Lancaster, and for regulating the police thereof," at present extend.

Bolton Le Moors.—The several townships of Great Bolton, Little Bolton, and Haulgh, except that detached part of the township of Little Bolton which is situate to the north of the town of Bolton.

Bury.—From the point in the hamlet of Starling at which a boundary stone marks the boundary of the respective townships of Elton and Ainsworth, along the lane from Starling to Walshaw lane, to the point in the hamlet of Walshaw lane at which a boundary stone marks the boundary of the respective townships of Elton and Tottington lower end; thence, eastward, along the boundary of the township of Elton to the point at which the same meets the Woodill brook; thence in a straight line to the point at which the Pigs Lea brook falls into the river Irwell; thence, eastward, along the boundary of the township of Bury to the point at which the same

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meets the boundary of the township of Elton; thence, westward, along the boundary of the township of Elton to the point first described.

Liverpool.—From the western extremity of Dingle lane, on the south of the town, along Dingle lane, to the point at which the same meets Ullet lane; thence along Ullet lane to the point at which the same meets Lodge lane; thence along Lodge lane to the point at which the same meets Smithdown lane; thence along Smithdown lane to the point at which the same is met by the boundary of the township of Wavertree; thence, northward, along the boundary of the township of Wavertree to that point thereof which is nearest to the south-eastern corner of the wall of the new Botanic Gardens; thence in a straight line to the said south-eastern corner; thence along the eastern wall of the new Botanic Gardens to the point at which such wall reaches Edge lane; thence, eastward, along Edge lane to a point seventy-four yards distant from the point last described; thence in a line parallel to the new street called Grove street to the point at which such parallel line reaches the London road; thence along the London road to the point at which the same is joined by Deane street; thence in a straight line to the boundary stone in Rake lane, near the southern extremity of Whitefield lane; thence, northward, along the boundary of the township of Everton to the point at which the same joins the boundary of the township of Kirkdale; thence, northward, along the boundary of the township of Kirkdale to the point at which the same reaches the high water mark of the river Mersey; thence along the high-water mark of the river Mersey to that point thereof which is nearest to the point first described; thence in a straight line to the point first described.

Manchester.—The several townships of Manchester, Chorlton Row otherwise Chorlton-upon-Medlock, Ardwick, Beswick, Hulme, Cheetham, Bradford, Newton, and Harpur Hey.

Oldham.—The several townships of Oldham, Chadderton, Crompton, and Royton.

Rochdale.—The space defined in the 101st section of an act passed in the sixth year of the reign of his late Majesty King George the Fourth, and intituled "An Act for lighting, cleansing, watching, and regulating the town of Rochdale in the county Palatine of Lancaster."

Salford.—From the northernmost point at which the boundary of the township of Salford meets the boundary of the township of Broughton, northward, along the boundary of the township of Broughton, to the point at which the same meets the boundary of the township of Pendleton; thence, westward, along the boundary of the township of Pendleton to the point at which the same meets the boundary of the detached portion of the township of Pendlebury; thence, southward, along the boundary of the detached portion of the township of Pendlebury to the point at which the same meets the boundary of the township of Salford; thence, westward, along the boundary of the township of Salford to the point first described.

Warrington.—The respective townships of Warrington and Latchford; and also those two detached portions of the township of Thelwall which lie between the boundary of the township of Latchford and the river Mersey.

Wigan.—The township of Wigan.

20.—COUNTY OF LEICESTER.

Southern Division.

Leicester.—The old borough of Leicester, and the space over which the magistrates of the old borough of Leicester at present exercise a jurisdiction concurrently with the magistrates of the county of Leicester, including the Castle View.

21.—COUNTY OF LINCOLN.

Parts of Lindsey.

Lincoln.—The old city of Lincoln, the bail and close, and a certain common, belonging to the freemen of Lincoln, called Canwick common, together with all extra-parochial places, if any, which are surrounded by the old city of Lincoln, the bail and close, and the said common, or any or either of them, or by the boundaries or boundary of any or either of them.

Great Grimsby.—The several parishes of Great Grimsby, Great Coates, Little Coates, Bradley, Laceby, Waltham, Scartho, Clee, Weelsby, and Cleethorpes.

Parts of Kesteven and Holland.

Boston.—The old borough of Boston, the parish of Skirbeck, and the hamlet of Skirbeck Quarter, including the Fen allotment of the hamlet of Skirbeck Quarter, but not the Fen allotment of the parish of Skirbeck.

Grantham.—The parish of Grantham, (including the several townships of Spittlegate, Manthorpe with little Gonerby, and Harrowby,) and that part of the parish of Somerby which is contained between the boundary of the parish of Grantham and High Dyke.

Stamford.—The old borough of Stamford, and such part of the parish of St. Martin Stamford Baron as lies between the boundary of the old borough and the following boundary; (that is to say,)

From the westernmost point at which the boundary of the parish of St. Martin meets the boundary of the old borough, southward, along the boundary of the parish of St. Martin, to the northernmost point at which the same meets the Wothorpe road; thence in a straight line to the southern tower, on the London road, of the gateway to Burghley house; thence, northward, along the wall of Burghley park to the point at which the same meets an occupation road called the "New road," which runs from the Barnack and Pilsgate road to the river Welland; thence along the said occupation road, and in a line in continuation of the direction thereof, to the point at which such line cuts the boundary of the old borough.

22.—COUNTY OF MIDDLESEX.

Finsbury.—The several parishes of St. Luke, St. George the Martyr, St. Giles-in-the-Fields, St. George Bloomsbury, St. Mary Stoke Newington, and St. Mary Islington; the several liberties or places of Saffron Hill, Hatton Garden, Ely Rents, Ely Place, the Rolls, Glass House Yard, and the Charter House; Lincolns Inn and Grays Inn; the parish of St. James and St. John Clerkenwell, except that part thereof which is situate to the north of the parish of Islington; those parts of the respective parishes of St. Sepulchre and St. Andrew Holborn, and of Furnivals Inn and Staple Inn respectively, which are situated without the liberty of the City of London.

London.—The whole space contained within the exterior boundaries of the liberties of the City of London, including the Inner Temple and the Middle Temple.

Marylebone.—The several parishes of St. Marylebone, St. Pancras, and Paddington.

Tower Hamlets.—The several divisions of the liberty of the Tower and the Tower division of Ossulston Hundred.

Westminster.—The old City and Liberties of Westminster and the Duchy Liberty.

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23.—COUNTY OF MONMOUTH.

Monmouth District.

Monmouth.—The parish of Monmouth, and all such parts of the old borough of Monmouth as lie without the parish of Monmouth.

Newport.—From the point, on the south of the town, at which the Mendle Gief road is joined by a husbandry road leading to Hundred Acres Gout, along the Mendle Gief road, to the point at which the same meets the Cardiff road; thence, westward, along the Cardiff road to the point at which the same meets the said streamlet from Cwrt-y-bella well; thence along the said streamlet to the pool on the western side of Friar's garden wall; thence along the watercourse up from the said pool to another pool on the western side of Bull field; thence along the western fence of Bull field to the point at which the same fence cuts the road from Stow to Risca; thence, westward, along the road from Stow to Risca to the point at which the same is cut by the fence which runs northward from the east end of the cottages belonging to John Ricketts; thence along the last-mentioned fence to the north-western corner of the field of which it is the western boundary; thence, eastward, along the northern fence of the last-mentioned field to the point at which the same is intersected by the fence of the adjoining field; thence, northward, along the last-mentioned fence to a well head; thence along the stream leading therefrom to the point at which the same meets the boundary of the old borough; thence, northward, along the boundary of the old borough to the point at which the same meets the river Usk at the mouth of Cridan pill; thence along the river Usk to the point at which the same is joined by a pill opposite the Castle; thence along the said pill to the Gout; thence along the watercourse, in a direction nearly due east, to the point at which the same meets the new road to Caerleon; thence along the new road to Caerleon to the point at which the same joins the old road to Christ Church; thence along the New Reen to the point at which the same meets Liswerry pill; thence along Liswerry pill to the point at which the same joins the river Usk; thence along the river Usk to the point at which the same time is joined by Hundred Acres Gout; thence along Hundred Acres Gout to the point at which the same is met by the said husbandry road leading thereto from the Mendle Gief road; thence along the said husbandry road to the point first described.

Usk.—From the bridge on the north of the town, called "Cwm-cayo bridge," along the brook over which the said bridge is built, to the point at which the same falls into the river Usk; thence down the river Usk, and along the boundary of the old borough, to the point at which the same cuts the mill stream; thence in a straight line to the farm house of Little Castle farm; thence along the eastern side of the fence of the farmyard of Little Castle farm to the north-eastern corner of such farmyard; thence in a straight line to the oak tree in the wood hedge on the summit of Lady hill; thence in a straight line to the point at which Cwm-cayo brook would be cut by a straight line to be drawn from the tree last described to Cwm-cayo bridge; thence along Cwm-cayo brook to Cwm-cayo bridge.

24.—COUNTY OF NORFOLK.

Eastern Division.

Norwich.—The city and county of the city of Norwich, together with all such extra-parochial places as are contained within the outer boundary of the city and county of the city of Norwich.

Great Yarmouth.—The old borough of Great Yarmouth, and the parish of Gorleston.

Western Division.

King's Lynn.—The old borough of King's Lynn.
Thetford.—The old borough of Thetford.

25.—COUNTY OF NORTHAMPTON.

Northern Division.

Peterborough.—The parish of Saint John Baptist, Peterborough, together with the extra-parochial district known by the name of "The Minster Precincts."

Southern Division.

Northampton.—The old borough of Northampton.

26.—COUNTY OF NORTHUMBERLAND.

Northern Division.

Berwick-upon-Tweed.—The parish of Berwick, and the respective townships of Tweedmouth and Spittal.

Morpeth.—The several townships of Morpeth, Buller's green, Newminster Abbey, Catchburn with Morpeth Castle and Stobhill, Hepscott, and Tramwell with High Church, and the parish of Bedlington.

Southern Division.

Newcastle-upon-Tyne.—The town and county of the town of Newcastle, and the several townships of Byker, Heaton, Jesmond, Westgate, and Elswick.

Tynemouth and North Shields.—The several townships of Tynemouth, North Shields, Chirton Preston, and Cullercoats.

27.—COUNTY OF NOTTINGHAM.

Northern Division.

Nottingham.—The county of the town of Nottingham.

Southern Division.

Newark-upon-Trent.—The old borough of Newark.

28.—COUNTY OF OXFORD.

Banbury.—The parish of Banbury.

Oxford.—From the tree on the east of the city called "Joe Pullen's Tree," in a straight line to the boundary stone in the lane called "Mrs. Knapp's Free Board;" thence along the said lane to the western extremity thereof; thence in a straight line to the centre of the island situate at the junction of the stream called "Harson's Heat" with the river Charwell; thence, westward, along the river Charwell to the point at which the same joins the old city boundary; thence, westward, along the old city boundary to the point at which the river Charwell divides into two streams; thence along the easternmost of such two streams to King's Mill; thence in a straight line to the easternmost part of King's Mill; thence in a straight line to "Joe Pullen's Tree."

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New Woodstock.—The old borough of New Woodstock; the several parishes of Bladon, Begbrook, Shipton-on-Cherwell, Hampton Gay, Tackley, Wootton, Stonesfield, Coombe, and Handborough; the parish of Kidlington, except the respective hamlets of Gosford and Water Eaton; the hamlet of old Woodstock and Blenheim park.

29.—COUNTY OF SALOP.

Northern Division.

Shrewsbury.—From the point at which the river Severn is joined by a stream or watercourse which flows by the Dog kennel, and under Bow bridge, along the said stream or watercourse to the point at which the same reaches the road leading from Old Heath into the Chester road; thence along the said road from Old Heath to the point at which the same joins the Chester road; thence along the Chester road to the point at which the same is met by a watercourse which runs round the Corporation gardens and Round hill, and joins the river Severn near the house called "The Flash;" thence along the last-mentioned watercourse to the point at which the same reaches the old Baschurch road; thence along the old Baschurch road to the point at which the same is met by a footpath leading along the wall of Flash House towards the river Severn; thence along the said footpath to the point at which the same meets again the last-mentioned watercourse; thence along the last-mentioned watercourse to the point at which the same joins the river Severn; thence along the river Severn to the point at which the same is met by the common boundary of the respective parishes of St. Chad and St. Julian; thence, eastward, along the boundary of the parish of St. Chad to the point at which the same reaches a lane or road which leads from the Montgomery road into lands belonging to Mrs. Cartwright; thence along such lane or road to the point at which the same joins the Montgomery road; thence in a straight line to the point at which the stream from the Conduit Head joins the Radbrook stream; thence along the Radbrook stream to the point at which the same reaches Kingsland lane; thence along Kingsland lane to the point at which the same joins the Bishop's Castle road; thence along the Bishop's Castle road to the point at which the same is met by the boundary of the parish of St. Julian; thence, eastward, along the boundary of the parish of St. Julian to the point at which the same meets the boundary of the parish of Holy Cross; thence, eastward, along the boundary of the parish of Holy Cross to the point first described.

Southern Division.

Bridgenorth.—The old borough of Bridgenorth, and the several parishes of Quatford, Oldbury, Tasley, and Astley Abbotts.

Ludlow.—From the point on the south of the town at which Dirty brook joins the river Teme, north-eastward, along the boundary of the township of Ludford to that point thereof which is nearest to the south-western corner of the piece of land called Rock Close; thence in a straight line to the said south-western corner; thence along the western fence of Rock Close to the point at which the same cuts the road to the Sheet; thence towards Ludlow along the road to the Sheet to the point at which the same is joined by a road leading by Gallows bank into Rock lane; thence along the last-mentioned road to the point at which the same reaches Rock lane; thence along Rock lane to the point at which the same is joined by a road to the Sandpits turnpike; thence along the said road to the Sandpits turnpike to the point at which the same is met by the eastern fence of the garden of the public house called the Cross Keys; thence in a straight line to the point at which Fishmore brook would be cut by a straight line to be drawn from the point last described to Stanton Lacy House; thence along the Fishmore brook to the point at which the same joins the river Corve; thence up the river Corve to the point at which the same meets the fence which sepa-

rates the lands occupied by Mr. William Russell from the lands occupied by Mr. Henry Lloyd; thence along the last-mentioned fence to the point at which the same meets the Shrewsbury road; thence along the fence which separates the two fields respectively called the Lease piece and Pike field to the point at which such fence meets the Burway road; thence, northward, along the Burway road to the point at which the same is met by the fence which separates the two fields respectively called "The Marshes" and "The Ox Pasture;" thence along the last-mentioned fence to the point at which the same meets the river Teme; thence in a straight line to the point at which the fence which divides the lands of the Hon. Robert Henry Clive from lands of the Corporation of Ludlow, in the occupation of Mr. William Smith, meets the Prior Halton road; thence towards Ludlow along the Prior Halton road to the point at which the same is met by the fence which divides the lands of the Corporation of Ludlow, occupied by the late Mr. Johnnen and Mr. George Anderson, from lands of the said Corporation occupied by the late Mr. Anthony Jones and Mr. Robert Meyrick; thence along the last-mentioned fence to the point at which the same meets the Brick House road; thence in a straight line to the eastern corner of Whitecliff coppice; thence, southward, along the north-eastern fence of Whitecliff coppice to the point at which the same meets the boundary of the township of Ludford; thence, southward, along the boundary of the township of Ludford to the point first described.

Wenlock.—The old borough of Wenlock.

30.—COUNTY OF SOMERSET.

Eastern Division.

Bath.—The old city of Bath, the respective parishes of Bathwick and Lyncomb and Wyncomb, and also that part of the parish of Walcot which lies without the old city of Bath, and adjoins the boundary of the old city of Bath.

Bristol.—From the point on the north-east of the city at which the eastern boundary of the out-parish of St. Paul meets the north-western boundary of the out-parish of St. Philip and Jacob, eastward, along the boundary of the parish of St. Philip and Jacob to that point thereof which is nearest to the point at which the Wells road leaves the Bath road; thence in a straight line to the said point at which the Wells road leaves the Bath road; thence along the Wells road to the Knowle turnpike gate; thence along the road which leads from the Knowle turnpike gate to Bedminster church to the point at which the same is crossed by Bedminster brook; thence along Bedminster brook to the point at which the same crosses the road from Locks Mill to Bedminster; thence along the last-mentioned road, passing the southern extremity of the village of Bedminster, to the point at which the same meets the brook at Marsh Pit; thence along the last-mentioned brook to the point at which the same meets the boundary of the parish of Clifton; thence, northward, along the boundary of the parish of Clifton to the boundary stone marked (C P) and (W P 12), marking the north-eastern angle of the boundary of the parish of Clifton, and situate on Durdham Down, east of the Shirehampton road; thence in a straight line to the southernmost point at which the boundary of the tithing of Stoke Bishop meets Parry's lane; thence, eastward, along the boundary of the tithing of Stoke Bishop to the point at which the same joins the boundary of the out-parish of St. Paul; thence, northward, along the boundary of the out-parish of St. Paul to the point first described.

Frome.—From Cottle's Oak turnpike gate, along Barton lane, to the point at which the same meets Green lane; thence along Green lane to the point at which the same meets the lane to Hellicar's grave; thence along the lane to Hellicar's grave to the southern extremity thereof; thence in a

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straight line through Plaguy House into Grove lane; thence in a straight line to the point at which the road from Tytherington is met by the lane to Adderwell at a place called the Mount; thence along the lane to Adderwell to the eastern extremity thereof near Bellows Hole; thence in a straight line to the point at which Frome river would be cut by a straight line to be drawn from the point last described to the house called "Mrs. Whites," or "Southfield farm house;" thence, northward, along Frome river to the point at which the same is joined by Rodden lake streamlet; thence along Rodden lake streamlet to Rodden bridge at the end of Rodden lane; thence along Rodden lane to the point called Clink crossways; thence in a straight line to the twelfth mile stone on the Bath road; thence in a straight line to the north-eastern corner of Mr Shepherd's garden wall; thence in a straight line, through the house of Thomas Ball and Mrs. Slade, to Frome river; thence along Frome river to the northernmost part of the buildings of the dye house, late the property of Samuel Button; thence in a straight line to the centre of Kissing Batch pound; thence in a straight line to Cottle's Oak turnpike gate.

Wells.—From the point on the north-east of the city at which the old city boundary meets Back lane, along Back lane to the point at which the same joins the Bath road; thence in a straight line across the Bath road to the northern extremity of Drang lane; thence along Drang lane, and along the footpath across Drang meadow, to the point at which such footpath joins the road which leads to the turnpike on the Shepton Mallett road; thence, westward, along the road so joined to the next city boundary stone; thence, southward, along the old city boundary to the point first described.

Western Division.

Bridgewater.—From the easternmost point at which the boundary of Three Elm field meets the river Parret, westward, along the boundary of Three Elm field to the point at which the same meets Reed Moor Pill; thence, westward, along Reed Moor Pill to the point at which the same reaches the southern boundary of the two fields respectively called the Pasture Ground; thence in a straight line to the point at which the boundary of the parish of Wembdon would be cut by a straight line to be drawn from the point last described to the spire of Bridgewater church; thence, southward, along the boundary of the parish of Wembdon to the point at which the same meets the Cannington road; thence, westward, along the Cannington road to the point at which the same is met by the boundary of the field called Six Acres; thence, westward, along the boundary of the field called Six Acres to the point at which the same meets, near the Horse and Jockey inn, the road from West street; thence, westward, along the said road from West street to the point at which the same is met by the western boundary of Matthew's field; thence along the western boundary of Matthew's field to the point at which the same meets the Town Mill leat; thence along the Town Mill leat to the point at which the same reaches the south-eastern corner of Matthew's field; thence in a straight line to the point at which Hamp brook meets Hamp lane; thence along Hamp lane to the point at which the same joins West road; thence along West road to the point at which the same is joined by Row's lane; thence along Row's lane to the point at which the same meets the fence which incloses the grounds of the house called "Hamp," belonging to John Chapman, Esq.; thence, southward, along the last-mentioned fence to the point at which the same meets a stream at Barland lane bridge; thence along the said stream to the point at which the same falls into the river Parret at Barland Clize; thence, westward, along the river Parret to the point at which the same is joined by the boundary of the northernmost of the two contiguous fields respectively called Five Acres; thence, eastward, along the boundary of the last-mentioned field to the point at which the same meets the boundary of the field called Four Acres; thence, northward, along the boundary of the field called Four Acres to the point at which the

same meets the boundary of a field called Five Acres; thence, eastward, (20.) *Divisions and Polling Places.* along the boundary of the last-mentioned field called Five Acres to the point at which the same meets the Weston Zoyland road; thence, eastward, along the Weston Zoyland road to the point at which the same is met by an occupation road leading towards the north; thence along the said occupation road to the northern extremity thereof; thence along the fence which is the western boundary of the fields respectively called Ten Acres, Seven Acres, and Five Acres, formerly belonging to Alexander Popham, Esq., to the point at which such fence meets the fence of a field called The Hundred Acres; thence in a straight line to the southern extremity, close by a penfold, of the fence which divides the two fields respectively called "Part of the Hundred Acres;" thence, eastward, along the boundary of the easternmost of the two last-mentioned fields to the point at which such boundary meets the Bath road; thence, northward, along the boundary of the field called Small Croft to the point at which the same meets the Bristol road; thence, westward, along the boundary of Great Castle field to the point at which the same meets the river Parret; thence along the river Parret to the point first described.

Taunton.—From the point on the north-west of the town at which Mill Lease stream crosses Greenway lane, along Greenway lane to the point at which the same joins the Kingston road; thence along the Kingston road to the point at which the same is joined by the Cheddon road; thence along the Cheddon road to the point at which the same is joined by Priors Wood lane; thence along Priors Wood lane to the point at which the same is met by the Obridge stream; thence along the Obridge stream to the point at which the same falls into the river Tone; thence, southward, along the river Tone to the point at which the same is met by Mill lane; thence along Mill lane to the point at which the same joins the Bridgewater road; thence along the Bridgewater road to the point at which the same is joined by Bath Pool lane; thence in a straight line to Stream Plat bridge; thence along the stream over which Stream Plat bridge is built, through Holway bridge, to the point at which the same stream meets the boundary of the parish of Wilton at Cuckoo corner; thence, westward, along the boundary of the parish of Wilton to the point at which the same meets Sherford stream; thence along Sherford stream to the point at which the same meets Sherford lane; thence along Sherford lane to the point at which the same joins the Honiton road; thence along the Honiton road to the point at which the same is joined by Hoverland lane; thence along Hoverland lane to the point at which the same meets Ganton stream; thence along Ganton stream to the point at which the same meets the boundary of the parish of Wilton; thence, northward, along the boundary of the parish of Wilton to the point at which the same meets the Bishops Hull road; thence, northward, along the Bishops Hull road to the point at which the same is joined by Long Run lane; thence in a straight line to the turnpike house on the Staplegrove road; thence along the Staplegrove road to the point at which the same is crossed by Mill Lease stream; thence along Mill Lease stream to the point first described.

31.—COUNTY OF STAFFORD.

Northern Division.

Newcastle-under-Lyme.—The old borough of Newcastle-under-Lyme, and the portion of the parish of Stoke-upon-Trent which is surrounded partly by the boundary of the old borough of Newcastle-under-Lyme and partly by the boundary of the township of Knutton.

Stafford.—From the point at which the boundary of the old borough is cut by a straight line drawn from the windmill near the bridge on the Doxey road to the stile at the southern end of the footpath from the Newport road into the Penkridge road, along the said straight line to the point at which

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the same meets the Penkridge road; thence, southward, along the Penkridge road to the point at which a stream of water running along the eastern side of that road turns eastward therefrom; thence along the said stream to the point at which the same meets Spittal brook; thence along Spittal brook to the point at which the same meets the river Sow; thence along the river Sow to the point at which the same meets the boundary of the old borough; thence, northward, along the boundary of the old borough to the point first described.

Stoke-upon-Trent.—The several townships of Penkhull with Boothen, Tunstall, Burslem, Hanley, Shetlon, Fenton Vivian, Lane End, Fenton Culvert, and Longton, the vill of Rushton Grange, and the hamlet of Sneyd.

Southern Division.

Lichfield.—The county of the city of Lichfield, and the place called The Close, which is encompassed by the said county.

Tamworth.—The parish of Tamworth.

Walsall.—The parish of Walsall, except that detached part thereof which is surrounded by the respective parishes of Aldridge and Rushall, and the chapelry of Pelshall.

Wolverhampton.—The several townships of Wolverhampton, Bilston, Willenhall, and Wednesfield, and the parish of Sedgely.

32.—COUNTY OF SUFFOLK.

Eastern Division.

Ipswich.—The old borough of Ipswich.

Western Division.

Bury St. Edmunds.—The old borough of Bury St. Edmunds.

Eye.—The several parishes of Eye, Hoxne, Denham, Redlingfield, Occold, Thorndon, Braisworth, Yaxley, Thrandiston, Broome, and Oakley.

Sudbury.—The old borough of Sudbury, and the township or hamlet of Ballingdon cum Brunden; together with all or any extra-parochial places or place surrounded by the boundaries either of the old borough of Sudbury or of the township or hamlet of Ballingdon cum Brunden.

33.—COUNTY OF SURREY.

Eastern Division.

Lambeth.—The parish of St. Mary Newington, the parish of St. Giles Camberwell, except the manor and hamlet of Dulwich, and also such part of the parish of Lambeth as is situate to the north of the line hereinafter described, including the extra-parochial space encompassed by such part:

From the point at which the road from London to Dulwich by Red Post hill leaves the road from London over Herne hill in a straight line to St. Matthew's church at Brixton; thence in a straight line to a point in the boundary between the respective parishes of Lambeth and Clapham, one hundred and fifty yards south of the middle of the carriage way along Acre lane.

Reigate.—The parish of Reigate.

Southwark.—The old borough of Southwark, including the Mint and manor of Suffolk; the several parishes of Rotherhithe, Bermondsey, and Christ Church; and the Clink liberty of the parish of St. Saviour.

Western Division.

Guildford.—From the point on the north of the town at which a creek leading from Dapdune house joins the river Wey, in a straight line to the point at which the road called the New road joins the Stoke road; thence along the New road to the point at which the same joins the Kingston road; thence along the Kingston road to the point at which the same joins Cross lane; thence along Cross lane to the point at which the same joins the Epsom road; thence in a straight line to the point in Chalky lane at which the boundary of Trinity parish leaves the same; thence along the southern boundary of Trinity parish to the point at which such boundary enters Gaol lane; thence in a straight line to the point at which the river Wey turns abruptly to the north at a wharf close by the Horsham road; thence in a straight line to the point at which the path from Guildford across Bury fields abuts on the Portsmouth road; thence in a straight line to the south-western corner of Cradle field; thence along the western hedge of Cradle field to the point at which the same cuts the old Farnham road; thence in a straight line towards Worplesdon Semaphore to the point at which such line cuts the new Farnham road; thence in a straight line to the point first described.

34.—COUNTY OF SUSSEX.

Eastern Division.

Brighthelmstone.—The respective parishes of Brighthelmstone and Hove.

Hastings.—The town and port of Hastings and its liberties, including that detached part of the parish of St. Leonard which lies near the town of Winchelsea, and including also the Liberty of the Sluice, but excluding all such other parts of the old borough of Hastings as are detached from the main body thereof.

Lewes.—From the Town mill on the north-western side of the town in a straight line to the Smock windmill, which is the most southerly of the two windmills called “The Kingstone Mills;” thence in a straight line to the point at which the boundary of the parish of Southover crosses the Cockshut stream; thence along the Cockshut stream to the point at which the same joins the river Ouse; thence along the river Ouse to the point at which the same would be cut by a straight line to be drawn from the point last described to the point on the eastern cliff known as the site of an old windmill; thence in a straight line to the said point on the eastern cliff; thence in a straight line to the windmill called “Malling Mill;” thence in a straight line to the point at which the stream which turns the paper mill falls into the river Ouse; thence in a straight line to the Town mill.

Rye.—The ancient towns of Rye and Winchelsea, the several parishes of Rye, Peasemars, Iden, Playden, Winchelsea, East Guildford, Icklesham, and Udimer, and also that part of the parish of Brede which lies between the parishes of Udimer and Icklesham.

Western Division.

Arundel.—The parish of Arundel.

Chichester.—From the eastern extremity of the boundary of the old city liberty at St. James’ post, northward, along the said boundary to the point at which the same meets the old Broill road; thence in a straight line to the westernmost point at which the boundary of the parish of St. Peter the Great meets the boundary of the parish of St. Bartholomew; thence, southward, along the boundary of the parish of St. Bartholomew to the point at which the same crosses the new road to Fishbourn; thence in a straight line to the turnpike gate on the Stockbridge road; thence in a straight line

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to the canal bridge adjoining the basin; thence in a straight line to the southern extremity of Snag lane; thence in a straight line to the southern extremity of Cherry Orchard lane; thence in a straight line to the point at which the Rumboldswick road meets the Oving road; thence in a straight line to the point first described.

Horsham.—The parish of Horsham.

Midhurst.—The several parishes of Midhurst, Easebourn, Heyshot, Chithurst, Graffham, Didling and Cocking; and the tithing of South Ambersham in the parish of Steep; that part of the parish of Bignor which is surrounded by the parish of Easebourne; those parts of the several parishes of Wool Lavington, Bepton, and Woolbeding which adjoin the parish of Midhurst; that part of the parish of Lynch which adjoins the said part of the parish of Bepton; and also that part of the parish of Lynch in which Woodman's green is situate; all such parts of the respective parishes of Stedham and Iping as are not situated to the north of the cross road which runs from Woodman's green, between North End farm and Hobbert's farm, to Milland marsh; the parish of Trotton, except that part thereof which lies to the north of the cross road from Vining common to Home hill and Cobed hall called Lonebeech lane; and all such parts of the respective parishes of Sellham and Lodsworth, and of the tithing of North Ambersham, as are not situated to the north of the brook which runs from Cooks bridge on the London road to Lickfold bridge.

35.—COUNTY OF WARWICK.

Northern Division.

Birmingham.—The respective parishes of Birmingham and Edgbaston, and the several townships of Bordesley, Duddeston and Nechels, and Deritend.

Coventry.—The city of Coventry and the suburbs thereof.

Southern Division.

Warwick.—The old borough of Warwick.

36.—COUNTY OF WESTMORLAND.

Kendal.—The respective townships of Kendal and Kirkland, and all such parts of the township of Nether Graveship as adjoin the township of Kendal.

37.—ISLE OF WIGHT.

Newport.—From the point on the south of the town at which the footpath to Shide joins the Niton road at Trattles Butt, in a straight line to the house in the parish of Carisbrooke which belongs to Joshua Spickernell, and is now in the occupation of Mrs. Stanborough; thence in a straight line across the Gatcombe road to the house which belongs to James Barlow Hoy, Esq., and is now in the occupation of James Dennett; thence in a straight line in the direction of West mill to the point at which such straight line cuts the Lukeley or Carisbrooke stream; thence, northward, along the Lukeley or Carisbrooke stream to the point at which the same meets the boundary of the old borough; thence, northward, along the boundary of the old borough to Pan bridge; thence in a straight line to the point at which the footpath to Shide meets Church Litton lane; thence along the said footpath to the point first described.

38.—COUNTY OF WILTS.

Northern Division.

Calne.—The parish of Calne, and also those parts of the respective parishes of Blackland and Calstone Willington which are surrounded by the parish of Calne, including all such parts, if any, of the old borough of Calne as are without the parish of Calne.

Chippenham.—The several parishes of Chippenham, Hardenhuish, and Langley Burrell, and the extra-parochial space called Pewisham.

Devizes.—The old borough of Devizes, including the respective parishes of St. John the Baptist and the Blessed Virgin Mary, and also so much of the chapelry of St. James and of the parish of Rowde as lies between the boundary of the old borough and the following boundary; (that is to say,)

From the point at which the boundary of the parish of St. John the Baptist would be cut by a straight line to be drawn from the dairy farm house on the Chippenham road called Ox House to the round tower of the new county bridewell, in a straight line to Ox House; thence in a straight line to a house occupied by Mr. Mayo, called Brow Cottage; thence in a straight line to the point at which the towing-path of the Kennet canal meets Dye House lane; thence, eastward, along the Kennet canal to the point at which the same turns northward near London bridge; thence in a straight line drawn due east to a point one hundred yards distant; thence in a straight line to Mr. Gundry's house on the Salisbury road; thence in a straight line to a house called Southgate, occupied by Mr. Slade; thence in a straight line to the southernmost point at which Gallows Acre lane is met by the boundary of the parish of St. John the Baptist.

Malmsbury.—The old borough of Malmsbury, the respective out-parishes of St. Paul Malmsbury and St. Mary Westport, and the several parishes of Brockenhorough, Charlton, Garsdon, Lea, Great Somerford, Little Somerford, Foxley, and Bremhilham.

Marlborough.—The old borough of Marlborough and the parish of Preshute.

Southern Division.

Salisbury.—From the south-western extremity of the wall of the poor-house at Fisherton Anger, in a straight line to a point in the Wilton road which is three hundred and thirty yards distant from the point at which the Wilton road joins the Devizes road; thence in a straight line to a point in Devizes road which is six hundred and forty yards distant from the point at which the Wilton road joins the Devizes road; thence in a straight line to the point at which the Stratford road joins the Marlborough road; thence in a straight line to the point called Whipping Cross Tree; thence in a straight line to the point at which the road from Salisbury to Laverstock joins the road from Salisbury to Clarendon; thence in a straight line to the point at which the eastern boundary of the city meets the river Avon; thence along the river Avon to the point at which the same joins the river Nadder; thence along the river Nadder to the point first described.

Westbury.—The parish of Westbury.

Wilton.—The several parishes of Wilton, Fugglestone, Stratford-under-the-Castle, Great Durnford, Woodford, South Newton, Wishford, Barford, Burcombe, Netherhampton, West Harnham, and Britford; such part of the parish of Fisherton Anger as will not by the provisions of this act be included within the boundary of the city of Salisbury; and also all such parts of the several parishes of Bishopston, Toney Stratford, Combe Bisset, and Humington as are situated to the north of a straight line to be drawn from Odstock church to the point on Combe hill at which a fence dividing the down from the cultivated land meets the old road from Salisbury to Blandford, and thence through the centre of the clump of trees called

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Fallstone Middle Nursery to the western boundary of the parish of Bishopston; together with all such part of the extra-parochial place called Grovely Wood as is situate to the east of a straight line to be drawn from the point at which the western boundary of the parish of Wishford meets the northern boundary of Grovely Wood, to the point at which the western boundary of the parish of Barford meets the southern boundary of Grovely Wood.

39.—COUNTY OF WORCESTER.

Eastern Division.

Droitwich.—The old borough of Droitwich; the several parishes of Dodderhill, Hampton Lovett, Doverdale, Salwarp, Martin Hussingtree, Oddingley, Hadsor, Hindlip, Himbleton, and Elmbridge; the Moreway-end division and the Broughton division of the parish of Hanbury; the extra-parochial places called Crutch and Westwood park; together with the two parts of the respective parishes of Claines and Warndon which are surrounded by the respective parishes of Hindlip and Martin Hussingtree; and also the extra-parochial place called Shell, and the detached part of the parish of Inkberrow, which are respectively contained between the parish of Himbleton and the Broughton division of the parish of Hanbury.

Dudley.—The parish of Dudley.

Evesham.—The old borough of Evesham.

Western Division.

Bewdley.—The parish of Ribbesford, and the several hamlets of Wribbenhall, Hoarstone, Blackstone, Netherton, and Lower Mitton with Lickhill.

Kidderminster.—From the point at or near Proud Cross at which the boundary of the old borough meets the Broomfield road, along the boundary of the old borough, to the point at which the Abberley road meets the Black brook; thence, westward, along the Abberley road to the first point at which the same is met by a hedge running due south therefrom; thence along the said hedge to its southern extremity near a stone quarry; thence in a straight line to the said stone quarry; thence in a straight line to the first mile stone on the Bewdley road; thence, westward, along the Bewdley road to the point at which the same is joined by a footpath leading to the Stourport road; thence along the said footpath to the point at which the same meets the boundary of the old borough; thence, southward, along the boundary of the old borough to the point at which the same meets the south-eastern fence of a wood called "The Copse," situated on the eastern bank of the river Stour; thence along the said fence to the point at which the same meets Hoo Lane; thence across Hoo Lane, over a stile called "Gallows Stile," along a footpath leading from the said stile to the lane from Hoo-brook to Comberton hill, to the point at which the last-mentioned footpath meets the lane from Hoo-brook to Comberton hill; thence, northward, along the lane from Hoo-brook to Comberton hill to the point at which the same meets the boundary of the old borough; thence, northward, along the boundary of the old borough to the point first described.

Worcester.—From the liberty post on the Tewkesbury road, southward, along the Tewkesbury road, to the point beyond the turnpike at which the same road is met by Duck brook; thence along Duck brook to the point at which the same crosses the London road; thence in a straight line to the western extremity of the road which leads out of the London road to Lark Hill; thence along the said road to Lark Hill to the eastern extremity thereof; thence along a footpath leading to the New Town road to the point at which the same reaches the New Town road; thence, westward, along the New Town road to the point at which the same is crossed by a

footpath leading from the House of Industry to the Porte Fields road; (20.) *Divisions and Polling Places.* thence along the last-mentioned footpath to the point at which the same joins the Porte Fields road; thence along a footpath which leads from the Porte Fields road, past Rainbow villa, into the Astwood road, to the point at which such footpath joins the Astwood road; thence along a road which leads from the Astwood road to the Whey Tavern to the point at which such road crosses the Worcester and Birmingham canal; thence along the Worcester and Birmingham canal to the bridge which is nearest to Gregory's mill; thence along the road leading from the said bridge to the Birmingham road to the point at which the same is crossed by the Barborne brook; thence along the Barborne brook to the point at which the same falls into the river Severn; thence along the river Severn to the point at which the same is met by the boundary of the parish of St. Clement; thence, westward, along the boundary of the parish of St. Clement to the point at which the same meets the boundary of the township of St John; thence, westward, along the boundary of the township of St. John to the point at which the same meets the Hereford road; thence along the Hereford road to the point at which the same is met by Powick lane, leading to Powick bridge; thence, southward, along Powick lane to the point at which the same terminates in a footpath; thence in a straight line to the point at which Cut Throat lane is met by a footpath leading from Boughton fields to the Malvern road; thence along the last-mentioned footpath to the point at which the same joins the Malvern road; thence, northward, along the Malvern road to the point at which the same meets the boundary of the township of St. John; thence, eastward, along the boundary of the township of St. John to the point at which the same meets the boundary of the parish of St. Clement; thence, eastward, along the boundary of the parish of St. Clement to the point at which the same meets the river Severn; thence, southward, along the river Severn to the point at which the same is met by the old city boundary; thence, southward, along the old city boundary to the liberty post aforesaid.

40.—COUNTY OF YORK.

North Riding.

Malton.—The respective parishes of St. Leonard and St. Michael, New Malton, the parish of Old Malton, and the parish of Norton.

Northallerton.—The respective townships of Northallerton and Romanby, and the chapelry of Brompton.

Richmond.—The respective parishes of Richmond and Easby.

Scarborough.—The parish of Scarborough, together with the extra-parochial precinct of Scarborough Castle.

Thirsk.—The several townships of Thirsk, Sowerby, Carlton Miniott, Sand Hutton, Bagby, and South Kilvington.

Whitby.—The several townships of Whitby, Ruswarp, and Hawsker-cum-Stainsacre.

York.—From the ancient barn on the Easingwold road, two hundred yards beyond the first mile stone on that road, in a straight line to the Lady or Clifton mill; thence in a straight line to the Pepper or Stray mill; thence in a straight line to the point at which the Stockton road would be cut by a straight line to be drawn thereto from the Pepper or Stray mill through the New Manor house; thence along the Stockton road to the point at which the same is joined by a lane leading from the eastern extremity of the village of Heworth towards the north; thence in a straight line to the point at which the Tang Hall Beck would be cut by a straight line to be drawn from the point last described to Heslington mill; thence along Tang Hall Beck to the point at which the same crosses the boundary of the county of the city of York; thence, southward, along the boundary of the county of the city of York to the point at which the same would be

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cut by a straight line to be drawn thereto from the south-eastern corner of the barracks through Lamel mill; thence in a straight line to the south-eastern corner of the barracks; thence along the southern wall of the barracks to the point at which the same cuts the Selby road; thence along the Selby road to the point at which the same is joined by Fulford Church lane; thence along the northern hedge of Fulford Church lane to the point at which the same ceases to be continuous, close by a farm building belonging to Mr. Ellis; thence in a straight line, in the direction of the said hedge, to the river Ouse; thence along the river Ouse to the southernmost point at which the same is met by the boundary of the City Liberty; thence, westward, along the boundary of the City Liberty to the point at which the same again meets the river Ouse; thence along the river Ouse to the point at which the same would be cut by a straight line to be drawn from the barn first described to Acomb church; thence in a straight line to the barn first described.

East Riding.

Beverley.—The several parishes of St. Mary, St. Martin, and St. Nicholas, and also such parts of the parish of St. John as is comprised within the liberties of Beverley.

Kingston upon Hull.—The several parishes of St. Mary, the Holy Trinity, Sculcoates, and Drypool; together with the extra-parochial space called Garrison-side, and all other extra-parochial places, if any, which are surrounded by the boundaries of the said parishes of St. Mary, the Holy Trinity, Sculcoates, and Drypool, or any or either of them; and also all such part of the parish of Sutton as is situated to the south of a straight line to be drawn from Sculcoates church to the point at which the Sutton drain meets the Summergangs drain.

West Riding.

Bradford.—The several townships of Bradford and Manningham and Bowling, and the township of Horton, including the Hamlets of Great and Little Horton.

Halifax.—From the point on the north of the town at which the respective boundaries of the several townships of Halifax, North Oram, and Ovenden meet, westward, along the boundary of the township of Halifax, to the point at which the same meets the road leading from a house called Shay to Bank Top; thence along the said road from Shay to Bank Top to the point at which the same meets the road leading from South Oram to North Oram; thence along the said road from South Oram to North Oram to God lane bridge; thence in a straight line to the south-eastern corner of New Town on the Bradford road; thence in a straight line to the point first described.

Huddersfield.—The township of Huddersfield.

Knaresbrough.—The boundary described in the second section of an act passed in the fourth year of the reign of his late majesty king George the Fourth, and intituled "An Act for paving, lighting, watching, cleansing, and improving the Town of Knaresborough in the West Riding of the County of York, and that Part of the Township of Scriven-with-Tentergate which adjoins the said Town, and is called Tentergate."

Leeds.—The parish of Leeds.

Pontefract.—The old borough and township of Pontefract, and the extra-parochial space called the Pontefract Park district, the Castle precincts, and also the several townships of Tanshelf, Monkhill, Knottingley, Ferrybridge, and Carleton.

Ripon.—The township of Ripon; and also such part of the township of Aismunderby-cum-Bondgate as is situate to the north of the point on the south of the town of Ripon at which the Ripley road meets the Littlethorpe road, and which is the southern extremity of the nearly disjointed portion of the township of Aismunderby-cum-Bondgate.

Sheffield.—The parish of Sheffield.

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Wakefield. From the southernmost point at which the boundary of the township of Wakefield leaves the river Calder, along the boundary of the township of Wakefield, to the point at which the same is intersected by a hedge running nearly north close by the western side of Park Gate Farm; thence in a straight line to the point at which the footpath leading to St. Swithin's Well joins the footpath from East Moor to Old Park; thence in a straight line to the point at which the Stanley road would be cut by a straight line to be drawn from the point last described to the Cupola of the Lunatic Asylum; thence along the Stanley road to the point at which the same is met by the East Moor road; thence along the East Moor road to a point at which the same meets the boundary of the township of Wakefield; thence, westward, along the boundary of the township of Wakefield to the point at which the same meets the boundary of the detached portion of the township of Alverthorp which lies north of the township of Wakefield; thence, westward, along the boundary of the said detached portion of the township of Alverthorp to the point at which the same joins again the boundary of the township of Wakefield; thence, southward, along the boundary of the township of Wakefield to the point at which the same meets Balne Lane; thence along Balne lane to the point at which the same is met by Humble Jumble lane; thence along Humble Jumble lane to the point at which the same meets the footpath to Flanshaw lane; thence along the footpath to Flanshaw lane to the point at which the same meets Smithson's railroad; thence along Smithson's railroad to the point at which the same meets the Dewsbury road; thence along the Dewsbury road to the point at which the same meets the New or Occupation road which unites the Dewsbury and Horbury roads; thence along the said New road to the point at which the same meets the Park wall of Thornes house; thence, northward, along the said wall to the point at which the same meets the road from Thornes to Horbury; thence along the road from Thornes to Horbury to the point at which the same meets the stream called "The Gilsike;" thence along the said stream to the point at which the same falls into the river Calder; thence along the river Calder to the point first described.

WALES.

41.—COUNTY OF ANGLESEA.

Beaumaris District.

Amlwch.—From the point on the north-east of the town at which Rhyd Talog Brook falls into the sea at Porth Aber Cawell, southward, along the boundary of the parish of Amlwch to the point called Croes Eilian; thence along the Plas Dulas road to the point called Penllaethdy Mawr; thence along the road leading to Pentre Felin, across the Llanerch-y-medd road, to the point called Pentre Felin Adda cross roads; thence along a road towards Pary's farm to the point at which the same is met by the first bye road on the right leading to Bod-gadfa farm; thence along the said bye road, passing Bod-gadfa farm, to the point at which the same bye road is crossed (between Bod-gadfa farm and a cottage called Yr-hen Odyn) by the Lastre brook; then along the Lastre brook, crossing the Holyhead road, to the point at which the same brook falls into the river called Afon Park Llechog; thence along the Afon Park Llechog to a ford in the Cemmaes road called Rhyd-carreg-cath; thence along the Cemmaes road to the cottage called Bryn-y-Cyll, at which the same road is met by the church

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pathway; thence along the church pathway to the stile over a brook which divides the land of the Marquis of Anglesea from the Coed Helen and Lysdulas property, and which stile is close by a spring called Ffynnon Casyris; thence along the last-mentioned brook to the point at which the same is met by a boundary fence (a few yards north of a cottage called Cae-bach) running in the direction of Mona mill; thence along the said fence to the point at which the same cuts the Porth Llechog road; thence, towards Amlwch, along the Porth Llechog road to the point at which the same is met by the Ffynnon-y-Garreg-fawr pathway; thence along the Ffynnon-y-Garreg-fawr pathway to the spring called Ffynnon-y-Garreg-fawr; thence along the stream which proceeds from the said spring to the point at which the same stream falls into the sea; thence along the sea to the point first described.

Beaumaris.—The old borough of Beaumaris.

Holyhead.—From that part of the common called "The Towyn," on the south-east of the town, which is nearest to Holyhead common, along the road leading to Penrhos which adjoins the Towyn, (and is to the east of a cottage called "Pen-Towyn," occupied by John Davis,) to the point at which the said road to Penrhos is met by another road leading to a piece of waste land called "The Cyttir;" thence along the said road to the Cyttir to the point at which the same meets the road which leads across the Cyttir; thence along the said road across the Cyttir to the point at which the same meets the old post road to Bangor; thence along the old post road to Bangor to Pentraeth; thence along the road which leads from Pentraeth in a westerly direction, and south of the new brewery, to the point at which the same joins another road; thence, northward, along the road so joined to the point at which the same meets the Penrhos-foila road; thence along the Penrhos-foila road to the point at which the same meets the road which leads by the Ucheldre windmill to the south stack; thence along the said road to the south stack, including the messuage, with the offices and garden thereunto belonging, now in the occupation of Captain Colin Jones, to the westernmost point (near a cottage called "Cerrig-y-lloi") at which the same is crossed by a stream running from the Holyhead mountain; thence along the said stream to the point at which the same falls into the sea; thence along the sea coast to that point thereof which is nearest to the point first described; thence in a straight line to the point first described.

Llangefni.—From the point at which the boundary wall between the property of Admiral Lloyd and the property of Owen Williams, Esq. meets the old Bangor road, east of a cottage called Min'fford, along the said boundary wall to the point at which the same reaches a spring and a footpath called Llwybyr Tregarnedd-bach; thence along a hedge which, running from the said spring and footpath, forms a continuation of the line of the said boundary wall, and runs through the land of John Hampton Lewis, Esq., to the point at which such hedge meets the river Cefni; thence, southward, along the river Cefni to the point at which the same is met by the boundary of the parish of Llangefni; thence, westward, along the boundary of the parish of Llangefni to the point at which the same meets the bye road called Llidiart-y-Pandy; thence along the said bye road Llidiart-y-Pandy to the spot called Croes-lon-pen-y-Nant; thence, southward, along the market road to the point at which the same joins the Rhos-y-meirch road; thence along the Rhos-y-meirch road to the first point at which the same is cut (beyond the road leading to Clai) by hedges running from each side of the road at right angles; thence along the hedge which runs from the last-mentioned point towards Pencraig to the point at which the same reaches an old quarry; thence along a hedge which proceeds from the said old quarry, and forms a continuation of the hedge last described, passing Tyn-y-coed farm, to the point at which the same hedge cuts the Llanddyfnan road; thence along the Llanddyfnan road, towards Llanddyfnan, to the point at which the same meets the boundary of the Pencraig-fawr farm; thence, southward, along the boundary of the Pencraig-fawr farm to the point at which the same meets the old Bangor road; thence along the old Bangor road to the point first described.

42.—COUNTY OF BRECON.

Brecon.—The old borough of Brecon, and the extra-parochial districts of the Castle and Christ's College.

43.—COUNTY OF CAERMARTHEN.

Caermarthen District.

Caermarthen.—The old borough of Caermarthen.

Llanelly.—From the point in Wern-y-Goosy meadow on the north-west of the town at which the old course of the stream, which is the old borough boundary, makes a sharp turn, in a straight line to the southern extremity of the western fence of Cae Mawr Issa field; thence, northward, along the fence of the Cae Mawr Issa field to the point at which the same meets the wall which is the western boundary of Furnace Garden; thence along the said wall to the point at which the same meets Pen-y-Fai lane; thence along Pen-y-Fai lane to the point at which the same meets the Caermarthen road; thence in a straight line to the north-western corner of the garden of Cae Mawr cottage, lately burnt down; thence along the fence which divides the garden of Cae Mawr cottage and the field Cae Isha from the field Cae-ycha to the point at which the same meets the fence which divides the field Cae-ycha from the field Cac-bank; thence along the last-mentioned fence to the northern corner of the field Cac-bank; thence in a straight line through the southern extremity of the north-eastern boundary of the field Cac-bank, across the tramroad, to the old borough boundary; thence, eastward, along the old borough boundary to the point first described.

44.—COUNTY OF CARDIGAN.

Cardigan District.

Aberystwith.—From the outermost point of the rock Graig-lais on the sea coast visible from the point next described, in a straight line to the northern extremity of the stone wall which divides the land called Pant-y-gyrn from the land called Frôn; thence along the said wall to the point at which the same meets the wall which divides the land Pant-y-gyrn from the land Frôn-uchaf; thence, eastward, along the boundary of Frôn-uchaf to the turnstile at the south-eastern corner thereof; thence in a straight line to the mill in the tanyard near the road leading to Llanbadarn-fawr; thence in a straight line to the wooden dam just above Plas-greig; thence, southward, along the boundary of the old borough to the sea coast; thence along the sea coast to the point first described.

Adpar.—The old borough of Adpar and the hamlet of Emlyn in the parish of Cennarth.

Cardigan.—The old borough of Cardigan, and also Bridgend hamlet and Abbey hamlet in the parish of St. Dogmel in the county of Pembroke.

Lampeter.—From the point on the Creithin-brook at which the northern boundary of the Glebe meets the boundary of the old borough, along the northern boundary of the Glebe to the point at which the same meets again the boundary of the old borough; thence, northward, along the boundary of the old borough to the point first described.

45.—COUNTY OF CARNARVON.

Carnarvon District.

Bangor.—From the point on the north-east of the town at which the road from the park wall of Penrhyn castle to the Menai Straits joins the Menai Straits at the high-water mark, along the said road to the point at which the same meets the said park wall; thence, westward, along the said park wall to the entrance gate to Lime grove; thence in a straight line across the road to the nearest point in the boundary wall immediately opposite, which bounds a field belonging to Lime Grove; thence along the said boundary wall to the point at which the river Cegin enters the grounds of ——— Pennant, Esq.; thence along the river Cegin to the bridge across the Shrewsbury road; thence in a straight line to a square brick seat or monument situate on a knoll in a field called Cae Pant; thence in a straight line to the nearest point of the road to Felin Esgob; thence in a straight line to the nearest point of the road to Brynniau; thence in a straight line to the point at which the road from Bangor to the Menai bridge leaves the road from Bangor to Carnarvon; thence along the said road to the Menai bridge, in the direction of such bridge, to the gate on the right-hand side which opens into an occupation road leading to Penrallt; thence in a straight line to the point at which the low-water mark in the Straits of Menai would be cut by a straight line to be drawn from the gate last described to the windmill called Llandegfan mill, which is on the opposite side of the straits; thence along the said low-water mark to the point thereof which is nearest to the point first described; thence in a straight line to the point first described.

Carnarvon.—The old borough of Carnarvon.

Conway.—The old borough of Conway.

Cricceith.—The old borough of Cricceith.

Nevin.—The old borough of Nevin.

Pwllheli.—From the south-western extremity of the boundary of the old borough on the sea coast, along the boundary of the old borough (leaving the sea coast) to the point at which the same is met by a small stream called "Afongoegen;" thence along the said stream to the bridge called "Sarn, or Pont-penmaen;" thence along the southern branch of the said stream to the point at which the same meets the boundary of the old borough; thence, northward, along the boundary of the old borough to the point at which the same meets a road leading from Deneio church into the Carnarvon road; thence along the said road from Deneio church to the point at which the same is cut by the fence of a field called "Cae Fynnow," in the occupation of Hugh Williams of Bryn Crin; thence along the last-mentioned fence to the point at which the same cuts an occupation road leading from Bryn Crin farmhouse into the Carnarvon road; thence along the said occupation road to the point at which the same joins the Carnarvon road; thence, northward, along the Carnarvon road to the point at which the same is met by a road on the right leading to Abereirch; thence along the said road to Abereirch to the point at which the same meets a road leading from Pwllheli to Tremadoc; thence in a straight line to the sea, at the nearest point; thence, westward, along the sea coast to the point first described.

46.—COUNTY OF DENBIGH.

Denbigh District.

Denbigh.—The old borough of Denbigh.

Holt.—The old borough of Holt.

Ruthin.—The old borough of Ruthin.

Wrexham.—The respective townships of Wrexham Abbot and Wrexham Regis; and also such part of the township of Esclusam-below as is surrounded by the townships of Wrexham Abbot and Wrexham Regis, or one of them.

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47.—COUNTY OF FLINT.

Flint District.

St. Asaph.—From the point on the north-west of the town at which the boundary of the township of Talar meets the river Elwy, westward, along the boundary of the township of Talar, to the Green Gate bridge over the brook Nant-y-franol; thence along the brook Nant-y-franol to the point at which the same meets the Holyhead road; thence, eastward, along the Holyhead road to the point at which the same is met by the boundary of the township of Talar; thence, eastward, along the boundary of the township of Talar to the point at which the same meets the boundary of the township of Bryn Polin; thence, southward, along the boundary of the township of Bryn Polin to the point at which the same meets the Upper Denbigh road; thence, northward, along the Upper Denbigh road to the point at which the same is met by a road or lane leading to Ysguborgoed; thence along such road or lane leading to Ysguborgoed to the point at which the same meets the river Clwyd; thence along the river Clwyd to the point at which the same is met by the southern boundary of the township of Cyrchynan; thence in a straight line to the point first described.

Caergwyle.—The old borough of Caergwyle.

Caerwys.—The old borough of Caerwys.

Flint.—The old borough of Flint.

Holywell.—From the boundary stone on the hill Pen-y-bryn, and on the western side of the hedge (which is between the cottage occupied by William Williams and the south-eastern corner of the plantation of Richard Sankey, Esq.), in a straight line to the boundary stone of the township of Holywell which is on the eastern side of the St. Asaph road; thence in a straight line to a bridge (in the lane leading to and past Greenfield Hall) over a watercourse running into the river Dee; thence, eastward, along the said watercourse to the point at which the same meets the boundary of the township of Greenfield; thence, southward, along the boundary of the township of Greenfield to the point at which the same meets the boundary of the township of Holywell; thence along the eastern and southern or exterior boundary of the township of Holywell to the boundary stone first described.

Mold.—The township of Mold.

Overton.—The old borough of Overton.

Rhuddlan.—The old borough of Rhuddlan.

48.—COUNTY OF GLAMORGAN.

Merthyr Tydvil.—From the point on the north of Merthyr Tydvil at which the northern boundary of the hamlet of Gellydeg meets the river called the Great Taff, northward, along the Great Taff, to the point at which the same is cut by the southern fence of Cilsanos common; thence, eastward, along the fence of Cilsanos common to the point at which the same cuts the Brecon road; thence, southward, along the Brecon road to the point at which the same meets the Vainor road; thence, eastward, along the Vainor road to the point at which the same meets a bye road leading to Cefn-coed-y-Cwymner; thence in a straight line to the point at which the Little Taff would be cut by a straight line to be drawn from the point last described to the southern mouth of a culvert on the eastern side of the Little

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Taff; thence, up the Little Taff, along the boundary of the parish of Merthyr Tydvil to the point at which the Cwm Bargoed stream is joined by a little brook from the Coli ravine; thence in a straight line to the north-eastern corner of the stone fence of Pen-dwy-cae Vawr farm; thence along the road which passes Pen-dwy-cae Vawr farmhouse to the point at which the same meets the mountain track from Dowlais to Quakers Yard; thence, southward, along the said track, between the farms of Pen-dwy-cae Vach and Pen-dwy-cae Vawr, to the point at which such track meets a road running nearly due west, by a stone quarry, to Pen-y-rhw Gymra cottage; thence along the last-mentioned road to the point at which the same reaches the southern side of Pen-y-rhw Gymra cottage; thence in a straight line to the point at which the southern boundary of Troed-y-rhw farm meets the Cardiff road; thence along the southern boundary of Troed-y-rhw farm to the point at which the same meets the Great Taff; thence in a straight line to the bridge over the Cardiff canal called Pont-y-nant Maen; thence, northward, along the Cardiff canal to the point at which the same is intersected by the Cwmdu brook; thence along the Cwmdu brook to its source; thence in a straight line drawn due west to the boundary of the parish of Aberdare; thence, southward, along the boundary of the parish of Aberdare to the point at which the same meets the boundary of the hamlet of Gellydeg; thence, eastward, along the boundary of the hamlet of Gellydeg to the point first described.

Cardiff District.

Cardiff.—The old borough of Cardiff; and so much, if any, of either or both of the respective parishes of St. John and St. Mary as lies without the old borough.

Cowbridge.—The old borough of Cowbridge.

Llantrissant.—the old borough of Llantrissant.

Swansea District.

Aberavon.—From the point on the south of the town at which the river Avon falls into the sea, northward, along the eastern boundary of the hamlet of Havod-y-Porth, to that point in a stone fence which is immediately opposite a small round pool; thence along the said stone fence to the point at which the same meets a lane or path leading to a small cottage; thence along such lane or path to the ford across the brook immediately opposite Margam chapel; thence along the road to Dyffrynucha to the point at which the same meets the railroad from the Tai-bach copper Works to Michalston; thence, northward, along the said railroad to the point at which the same crosses a small stream running into the river Avon; thence along the said stream to the point at which the same falls into the river Avon; thence in a straight line to the point at which a stream which runs through the Cwm Bychan Ravine falls into the river Avon; thence along the last mentioned stream to the point at which the same meets the boundary of the parish of Baglan; thence, southward, along the boundary of the parish of Baglan to the point at which the same meets the boundary of the parish of Aberavon; thence, westward, along the boundary of the parish of Aberavon to the point at which the boundary of the old borough leaves the same; thence along the boundary of the old borough to the point at which the same meets the boundary of the hamlet of Havod-y-Porth; thence, southward, along the boundary of the hamlet of Havod-y-Porth to the point first described.

Kenfig.—The old borough of Kenfig.

Loughor.—The old borough of Loughor.

Neath.—From the point lowest down the river Neath at which the boundary of the old borough leaves the river Neath, along the boundary of the old borough, leaving the river Neath, to the point at which Caerfwell ditch joins the river Neath; thence along Caerfwell ditch to the point at which

the same meets the lane called Heol-Morfa; thence along the lane Heol-Morfa to the point at which the same joins the high road to Merthyr; thence along the high road to Merthyr to the point at which the road to Pontardawey leaves the same; thence along the road to Pontardawey to the point at which the same is joined by a lane called Rheol-y-glow; thence along the lane Rheol-y-glow to the point at which the same meets a brook; thence along such brook to the point at which the same meets Rheol-wern-fraith lane; thence along Rheol-wern-fraith lane to the point at which the same is cut by a fence forming the north-western boundary of Cae-canddaw field; thence along the last-mentioned fence to the point at which the same meets the brook running to Nantlyros; thence along the brook running to Nantlyros to the point at which the same joins the canal; thence along the canal to the point at which the same crosses the stream Clydach; thence along the stream Clydach to the point at which the same joins the river Neath; thence along the river Neath to the point first described.

Swansea.—From the point at which the northern boundary of the parish of St. John is crossed by the road to Llangefelach church, northward, along the road to Llangefelach church to the point at which the same is joined by a lane called Rheol-y-cnap; thence along the lane Rheol-y-cnap, and along a lane which is a continuation thereof, and which joins the turnpike road to Neath opposite the Llandwr engine, to the point at which such last-mentioned lane joins the turnpike road to Neath; thence, northward, along the turnpike road to Neath to the point at which the same is joined, between the Duke's Arms public-house and a blacksmith's shop, by a road leading towards Clâs Mont farm; thence along the last-mentioned road to the point at which the same is met, opposite the lane from Pen-lan commonly called Pen-lan road, by a track leading to a well head; thence along the said track to the point at which the same reaches the said well head; thence along the stream which flows from the said well head to the point at which the said stream falls into the stream called Nant Velin; thence along the stream Nant Velin to the point at which the same crosses the road which leads from Morriston into the road from Llangefelach church to the bridge over the river Tawey; thence along the said road from Morriston to the point at which the same joins the road from Llangefelach church to the bridge over the river Tawey; thence along the last-mentioned road to the point at which the same reaches the said bridge over the river Tawey; thence, eastward, along the turnpike road to Neath to the point at which the same is met near the Star public-house by a lane which leads from the southern extremity of the parish of Llansamlet, over Cilfay hill and by Bon-y-maen, to Llansamlet church; thence along the last-mentioned lane to the point at which the same meets the boundary of the hamlet of St. Thomas near Tregwl; thence, eastward, along the boundary of the hamlet of St. Thomas to the point at which the same meets the boundary of the town and franchise; thence, westward, along the boundary of the town and franchise to the point at which the same meets the boundary of the parish of St. John; thence, westward, along the boundary of the parish of St. John to the point first described.

49.—COUNTY OF MONTGOMERY.

Montgomery District.

Llanfyllin.—From the southern extremity, on the north-west of the town, of the private road which leads from the Llangynog turnpike road to Bodfach Hall, along the said private road to the point at which the same is met by the boundary of the field Cae Evan Griffith; thence, northward, along the boundary of the field Cae Evan Griffith to the point at which the same meets the boundary of the field Maes Ucha; thence, eastward, along the boundary of the field Maes Ucha to the point at which the same meets the

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boundary of the field Cae-pella Bwlch-y-llan; thence, northward, along the boundary of the field Cae-pella Bwlch-y-llan to the point at which the same meets the Llangedwyn road; thence along the northern fences of the respective fields Cae Dû, Cae Main, and Cae Dû Mawr, and along the eastern fence of the field Cae Dû Mawr, to the point at which the last-mentioned fence reaches the Derwlwyn wood; thence in a straight line across the Derwlwyn wood to the northern extremity of the eastern fence of Glynie Isá tenement; thence along the eastern fence of Glynie Isá tenement to the point at which the same meets the Brynellodyn road; thence along the Brynellodyn road to the point at which the same reaches Green Hall park; thence, southward, along the boundary of the field Caer Frôn to the point at which the same meets the boundary of the field Caer Gwennithdir; thence, southward, along the boundary of the field Caer Gwennithdir to the point at which the same meets the river Cain; thence along the river Cain to the bridge called Pont-y-Derwlwyn; thence along Pont-y-Derwlwyn lane to the point at which the same meets the Bachie road; thence along the Bachie road to the eastern corner of Garth wood; thence along the south-western fences of the fields Caer Garth and Cyfie Ucha, and of the wood Coed Pen-y-Garth, and, westward, along the southern fence of the field Cae Gwennith, to the point at which such southern fence cuts the occupation road to Pen-y-Garth farm; thence in a straight line to the eastern extremity of the southern fence of the field Llwyn Bricks; thence, westward, along the boundary of the field Llwyn Bricks to the point at which the same meets the fence of the field Cae Bath; thence, westward, along the fence of the field Cae Bath to the point at which the same meets the brook Abel; thence along the brook Abel to the point at which the same is met by the western fence of the easternmost of the fields respectively called Lower Meadow; thence along the western fence of the last-mentioned field to the point at which the same cuts the lane to Tynewydd; thence, northward, along the boundary of the field Llwyn Hir to the point at which the same meets the boundary of the field Cae Mawr; thence, northward, along the boundary of the field Cae Mawr to the point at which the same meets the boundary of the field Cae Bach; thence, eastward, along the boundary of the field Cae Bach to the point at which the same meets the boundary of the field Upper Coed Llan, thence, eastward, along the boundary of the field Upper Coed Llan to the point at which the same meets the boundary of the field Lower Coed Llan; thence, northward, along the boundary of the field Lower Coed Llan to the point at which the same meets the occupation road to Pen Coed Llan; thence in a straight line to the point first described.

Llanidloes.—From the point on the south-east of the town at which Cwm Jonathan Rill crosses the Rhaydr road, southward, along Cwm Jonathan Rill, to the point at which the same is met by the hedge on the right hand which is nearest to the point at which Cwm Jonathan Rill crosses the Cart lane from Ty-coch to Llanidloes; thence along the said hedge to the point at which the same meets the Ty-coch stream; thence along the Ty-coch stream to the point at which the same reaches the Llangurig road; thence, northward, along the Llangurig road to the point at which the same is cut by the nearest hedge on the left hand; thence along the last-mentioned hedge to the point at which the same reaches a water-cut bank; thence, southward, along the said water-cut bank to the point at which the same reaches a hedge running in the direction of the turnpike on the Pymlymon road; thence along the last-mentioned hedge to the point at which the same reaches the river Severn; thence along the river Severn to the point at which the same is cut by a line drawn thereto in continuation of the direction of the hedge on the northern end of Pen-y-Green; thence along the last-mentioned line, and along the hedge in continuation whereof it is drawn, to the point at which such hedge reaches the hedge of Mr. Price's wood; thence in a straight line to the point at which the stream called Cefn Cummere Dingle meets the Pen-y-bank road; thence along the Cefn Cummere Dingle to the point at which the same joins the Clywedog river;

thence, westward, along the boundary of the township of Cilmachallt, to the point at which the same meets a small watercourse which runs along the western edge of Berth Lloyd Coppice; thence along the said watercourse to the point at which the same reaches the lane from Llanidloes to Gorn; thence, westward, along the lane from Llanidloes to Gorn to the point at which the same reaches the hedge which runs along the eastern side of the Chapel House; thence along the last-mentioned hedge to the point at which the same reaches Lletty-coch-y-nant brook; thence, westward, along Lletty-coch-y-nant brook to the point at which the same is met on the left hand by a small stream; thence along the last-mentioned stream to the spring from which the same proceeds; thence in a straight line to the nearest point in the road from Llanidloes to the barn Leasow; thence, westward, along the road from Llanidloes to the barn Leasow to the point at which the same meets the boundary of the borough of Llanidloes; thence, southward, along the borough of Llanidloes to the point at which the same meets Cwm Jonathan Rill; thence along Cwm Jonathan Rill to the point first described.

Machynlleth.—The township and liberties of Machynlleth; and also that detached part of the township of Isygarreg which adjoins the north-eastern boundary of the township and liberties of Machynlleth.

Montgomery.—The old borough of Montgomery.

Newtown.—The parish of Newtown, and the respective townships of Hendidley and Gwestydd.

Welshpool.—The parish of Pool, and the township of Gungrog Fechan in the parish of Guilsfield, except that part of the township of Cyfronnydd in the parish of Pool which is detached from the main body of such parish.

50.—COUNTY OF PEMBROKE.

Haverfordwest District.

Fishguard.—From the point at which the low-water mark would be cut by a straight line to be drawn thereto from the gate of the fort through the eastern extremity of the southern wall of the fort, in a straight line to the gate of the fort; thence in a straight line to the north-western corner of Parc-y-Morfa meadow; thence along the western fence of Parc-y-Morfa meadow to the south-western corner thereof; thence in a straight line to the highest point of Parc-y-Morfa rock; thence in a straight line to the north-western corner of the fence which divides the Glyn Amel property from the property of Mr. Vaughan; thence, southward, along the said fence of the Glyn Amel property to the point at which the same meets the northern stream of the river Gwaine; thence up the said stream to the point at which the same meets the boundary of the old borough; thence, eastward, along the boundary of the old borough, to the point at which the same meets the low-water mark; thence, eastward, along the low-water mark to the point first described.

Haverfordwest.—From the point at which a straight line drawn from St. Thomas's church to the gate at the north-eastern corner of the field called Hill Park cuts the boundary of the old borough, along such straight line to the said gate; thence in a straight line to the gate which crosses the road leading to Scotch Well House; thence along the last-mentioned road to the point at which the same reaches Scotch Well House; thence along the road which leads by Sandpool into the Cardigan road to the north-eastern corner of Sandpool; thence in a straight line to the cottage of Philip White; thence in a straight line to the left pier of the Weir on the river Cleddy; thence along the river Cleddy to the point at which the same would be cut by a straight line to be drawn from Prendergast church to the gate leading from the lane on the north-east of Little Slade farm into the paddock of Little Slade farm; thence in a straight line to the last-mentioned gate; thence in a straight line to the

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point at which the boundary of the old borough would be cut by a straight line to be drawn from the last-mentioned gate to the point at which the Poor-field road (otherwise called Jury lane) leaves the St. David's road; thence, westward, along the boundary of the old borough to the point first described.

Narberth.—From the southern end of the turnpike-gate house on the Redstone road, westward, along the fence which abuts on the said house and is the northern boundary of a field of which George Harris is tenant and Mr. Thomas Eaton landlord, to the north-western corner of the said field; thence in a straight line to the north-eastern corner of a field belonging to George Devonald, Esq., and bounded on the south by the turnpike road to Haverfordwest; thence along the private road which runs from the last-mentioned field to the point at which the said private road meets the said road to Haverfordwest; thence in a straight line across the said road to Haverfordwest to the point at which the same is met by the western boundary of the Town Moor; thence, southward, along the western and southern boundary of the Town Moor to the gate of a lane at the south-eastern corner thereof; thence along the said lane to the point at which the same meets the boundary of Narberth churchyard; thence, westward, along the boundary of Narberth churchyard to the south-western corner thereof; thence in a straight line to the point at which the stream from Narberth bridge would be cut by a straight line to be drawn from the point last described to the point at which the road from the parsonage meets the road from Pembroke; thence up the said stream to the point at which the same is joined by the stream from Narberth mill; thence up the stream flowing from Narberth mill to the south-western corner of the field of which Lewis Watkins is tenant and Baron Retzen is landlord; thence, eastward, along the boundary of the last-mentioned field to the point at which the same meets the southern boundary of the field belonging to Mr. Henry Davies, in which there is a turnstile; thence, eastward, along the southern boundary of the said field of Mr. Henry Davies, and the southern and eastern boundary of the adjoining field belonging to George Phillips, Esq., to the point at which the eastern boundary of the said field of George Phillips, Esq., meets the occupation road leading to Blackalder; thence, eastward, along the occupation road to Blackalder to the point at which the same meets the south-eastern boundary of the easternmost of two contiguous fields of which Mrs. Evans is tenant and Daniel Thomas landlord; thence along the boundary of the last-mentioned field to the point at which the same meets the Carmarthen road; thence in a straight line across the Carmarthen road to the south-eastern corner of the field belonging to John Lewis; thence along the eastern boundary of John Lewis's field to the point at which the same cuts the Cardigan road; thence in a straight line across the Cardigan road to the south-western corner of Jesse's Well House; thence in a straight line to the point at which the fence of the grounds attached to the house called Bloomfield's would be cut by a straight line to be drawn from the point last described to the house called Bloomfield's; thence, westward, along the last-mentioned fence to the point at which the same cuts the Redstone road; thence along the Redstone road to the point first described.

Pembroke District.

Milford.—From the point at which Prix Pill falls into the sea, along Prix Pill, to the point at which the same is met by the lane coming down by Cwm, and sometimes called Cwm lane; thence along Cwm lane to the point at which the same meets the road from Haverfordwest; thence along the road from Haverfordwest to the point at which the same is met by Priory lane; thence along Priory lane to the point at which the same meets, on the left, a road sometimes called the New Road; thence along the New Road to the point at which the same meets a lane sometimes called White Lady's lane, leading to a field north of the brewery, sometimes called Haggard field; thence along White Lady's lane to the point

at which the same is cut by the fence of Haggard field; thence, northward, (20.) *Divisions and Polling Places.* along the fence of Haggard field to the north-western corner thereof; thence in a straight line in the direction of the northern fence of Haggard field to Priory Pill; thence in a straight line to the White Warehouse standing at the head of the rope walk in Hubberstone parish; thence along Spike lane which proceeds from the said White Warehouse to the point at which the same meets Conjwick lane; thence along Conjwick lane to the point at which the same meets the lane which was lately part of Point field; thence along the lane lately part of Point field to the point at which the same ends on the common; thence in a straight line through the westernmost point of the fort to the sea coast; thence along the sea coast to the point first described.

Pembroke.—The respective parishes of St. Mary and St. Michael, and also the space comprised within the boundary hereafter described (together with all such parts, if any, of the old borough of Pembroke as lie without the said boundary):

From the point on the south-west of the town at which the brook called the Taylor's Lake meets the boundary of the parish of St. Mary, northward, along the said brook, to the point at which the same joins the Pill near Quoit's mill; thence along the said Pill to the point at which the same meets the boundary of the parish of St. Mary; thence, eastward, along the boundary of the parish of St. Mary to the point first described.

Tenby.—The in-liberty of Tenby.

Wiston.—The old borough of Wiston.

51.—COUNTY OF RADNOR.

Radnor District.

Cefn Llys.—The old borough of Cefn Llys.

Knighton.—The old borough of Knighton.

Knucklas.—The old borough of Knucklas.

Presteign.—The ancient lordship, manor, and borough of Presteign, together with such parts, if any, of the township of Presteign, and of the chapelry of Discoyd, as are without the ancient lordship, manor, and borough of Presteign; and also the space included within the following boundary; (that is to say,)

From the point on the north of the town at which Norton brook falls into the river Lug, in a straight line to the point at which the road to Wigmore and Ludlow is met by the road to Kinsham village; thence in a straight line to the point at which the right-hand branch of the Clatter brook falls into the river Lug; thence along the river Lug to the point first described.

New Radnor.—The old borough of New Radnor.

Rhaydrgwy.—From the point at which the boundary of the old borough would be cut by a straight line to be drawn from Rhadyr church to the bridge over the Gwynllin brook on the new road to Aberystwith, in a straight line to the said bridge; thence along the Gwynllin brook to the weir or dam head; thence along the southern bank of the mill dam to the point at which the same is cut by the eastern fence of Gwynllin-lain field; thence, southward, along the eastern fence of Gwynllin-lain field to the gate leading into the yard of the grist mill and woollen manufactory belonging to David Evans; thence along the road which crosses the said yard to another gate at the south-eastern corner thereof; thence in a straight line to the north-eastern corner of the farmhouse called Ty-Newidd or New House; thence in a straight line to the point at which the boundary of the old borough would be cut by a straight line to be drawn from the New House to the bridge over the river Wye; thence, southward, along the boundary of the old borough to the point first described.

Parliament.

Indictment on 2
Wil. IV. c. 45, s.
19, against a voter
for giving a false
answer at an elec-
tion.

— (venue) to wit. *The jurors for our Lord the King upon their oath pre- sent, that heretofore, to wit, on the day of , in the year of the reign of our Sovereign Lord the now King William the Fourth, at a certain election for members to serve in parliament for the county of , to wit, at the parish of in the county aforesaid, C. D., late of the parish afore- said in the county aforesaid, labourer, then and there appeared as a voter at the said election, and then and there tendered his vote as such voter; and that one C. D. a deputy of E. F. (which said E. F. was then and there the returning officer at the said election) did then and there, at the time of the said C. D. so tendering his said vote as aforesaid, put to the said C. D. (being thereunto required by and on behalf of M. P., who was then and there a candidate at the said elec- tion,) the following question, that is to say, "Are you the same person whose name appears as A. B. on the register of voters now in force in the county of (—),"* to which question the said C. D. then and there unlawfully and wil- fully did falsely answer ("Yes"): Whereas in truth and in fact the said C. D. was not the person whose name then and there appeared as A. B. on the register of voters then in force for the said county, but then and there was ano- ther and different person: against the form of the statute in such case made and provided, and against the peace of our Lord the King, his crown and dignity. [If a false answer be given to another of the questions, insert another count to meet it.]

Pauper.

A DEFENDANT in a criminal proceeding is entitled to defend in *formâ pauperis*, if the court will allow it. (*R. v. Wright*, Rep. T. Hard. 211; *Com. Dig.*, *Formâ Pauperis*; *Vin. Ab. Paupers*; 1 Chit. C. L. 412; *Rex v. Page*, 1 Dowl. P. C. 507.) The defendant should in support of the appli- cation make an affidavit that he is not worth 5*l.* in the world, his wearing apparel only excepted.

By the 2 Geo. III. c. 28, s. 8, a person arrested on a *capias* or informa- tion relating to the customs, upon making affidavit that he is not worth 5*l.* exclusive of his wearing apparel, may, at the discretion of such judge, be admitted to defend as a pauper, with the same privileges as those who may sue in this manner for the recovery of civil rights.

The mode for the party defending, to obtain this benefit, is by making an affidavit before the judge or a commissioner of the court, under the last- mentioned act, that he is not worth 5*l.*, and then to petition to have a particular counsel and clerk assigned him. (*Vin. Ab. Paupers*, B.; 1 Chit. C. L. 413.)

An order cannot be made at the judge's chambers in vacation, for leave to prosecute in *formâ pauperis*: the order must be obtained in court. (*R. v. Cresswell*, 1 Chit. C. L. 413.)

When this admission is granted, it prevents the officers of the court from taking fees, as well as those who are assigned to conduct the cause on the motion of the defendant. (*Hullock*, 228, n. 1.)

Partition.

8 & 9 W. 3, c. 31.

BY the 8 & 9 Wil. III. c. 31, intituled "An Act for the easier obtaining Partitions of Lands in Coparcenary, Joint-tenancy, and Tenancy in com- mon," it is enacted, that if the high sheriff cannot conveniently be present at the execution of any judgment in partition, in such case the under- sheriff, in presence of two justices, may proceed to execution of the writ of partition.

Partners.

PROPERTY of, how described, see, "Indictment," Vol. III.

A partnership is determined by attainder, see, "Attainder," Vol. I.

Partridges. See "Game." Vol. II.

Patent.

AS to proof of Letters Patent, see "Evidence." Vol. II.

Paving Act.

THE general Paving Act as to the Metropolis is the 57 Geo. III. c. 29. See 3 M. & P. 1; "Lighting," Vol. III.

Pawning.

[1 Jac. I. c. 21; 30 Geo. II. c. 24; 25 Geo. III. c. 48; 39 & 40 Geo. III. c. 99; 55 Geo. III. c. 184; 5 Geo. IV. c. 107; 9 Geo. IV. c. 49.]

BY the 25 Geo. III. c. 48, s. 1, 3, 4, 12, every person exercising the trade of a pawnbroker shall take out a license, and shall renew the same annually, ten days at least before the end of the year, on pain of forfeiting 50*l.*; to be recovered in the courts at Westminster. License.

By the 9 Geo. IV. c. 49, s. 12, pawnbrokers' licenses are to expire annually, on the 31st of July.

By the 55 Geo. III. c. 184, *sch. part. 1*, upon every license to be taken out yearly for using or exercising the trade or business of a pawnbroker, within the cities of London and Westminster, or within the limits of the two-penny post, there shall be paid a duty of 15*l.*

And for using or exercising the trade or business of a pawnbroker, elsewhere, 7*l.* 10*s.*

Sect. 3. The said duties to be under the management of the commissioners of the stamp duties.

By the 25 Geo. III. c. 48, s. 7 & 8, no person shall keep more than one house or shop by virtue of one license; but persons in partnership need only take out one license for one house. One house only under one license.

Sect. 5. All persons who shall receive, by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon, shall be deemed pawnbrokers. Who deemed pawnbrokers.

Sect. 6. But the same shall not extend to any person who shall lend money at 5*l.* per cent. interest, without taking any further or greater profit for the loan thereof. See also 39 & 40 Geo. III. c. 99, s. 30, *post*, 150. Not persons lending at 5 per cent.

The 36 Geo. III. c. 87, being in force only for three years, and till the end of the then next session of parliament, the 39 & 40 Geo. III. c. 99, was substituted in lieu thereof. The latter act is intituled "An Act for better regulating the Business of Pawnbrokers," and s. 2 enacts "That it shall be Rate of profit to be taken.

lawful for all persons using and exercising the trade or business of a pawnbroker, to demand, receive, and take of and from all and every person and persons applying or offering to redeem any goods or chattels pawned or pledged with such pawnbroker, a profit, after the following rates, over and above the principal sum and sums which shall have been lent and advanced upon the respective pledge or pledges, before any such pawnbroker shall be obliged to re-deliver the same; (*videlicet*,) Pawnbrokers allowed to take certain rates.

39 & 40 G. 3, c. 99.

Rates.

For every pledge upon which there shall have been lent any sum not exceeding two shillings and sixpence, the sum of one halfpenny for any time during which the said pledge shall remain in pawn not exceeding one calendar month, and the same for every calendar month afterwards, including the current month in which such pledge shall be redeemed, although such month shall not be expired :

For every pledge upon which there shall have been lent the sum of five shillings, one penny :

For every pledge upon which there shall have been lent seven shillings and sixpence, one penny halfpenny :

For every pledge upon which there shall have been lent ten shillings, twopence :

For every pledge upon which there shall have been lent twelve shillings and sixpence, twopence halfpenny :

For every pledge upon which there shall have been lent fifteen shillings, threepence :

For every pledge upon which there shall have been lent seventeen shillings and sixpence, threepence halfpenny :

For every pledge upon which there shall have been lent one pound, fourpence; and so on progressively and in proportion for any sum not exceeding forty shillings :

For every pledge upon which there shall have been lent any sum of money exceeding forty shillings, and not exceeding forty-two shillings, eightpence :

And for every pledge upon which there shall have been lent any sum exceeding forty-two shillings and not exceeding ten pounds, at and after the rate of threepence and no more (a) for the loan of every twenty shillings for all such money so lent, by the calendar month, including the current month; and so in proportion for any fractional sum :

Which said several sums shall be taken in lieu of and as a full satisfaction for all interest due, and charges for warehouse-room."

Rate when the intermediate sum lent exceeds 2s. 6d. but does not exceed 40s.

Sect. 3. "In all cases where any intermediate sum, lent upon any pawn or pledge, shall exceed the sum of two shillings and sixpence, and not exceed the sum of forty shillings, the person lending the same shall and may take, by way of profit as aforesaid, at and after the rate of fourpence and no more, for the loan of twenty shillings by the calendar month, including the current month as aforesaid."

Pawnbrokers to give farthings in change.

Sect. 4, "In all cases where the sum to be demanded, received, and taken, by any pawnbroker or pawnbrokers, his, her, or their servant or agent, of and from any person or persons applying or offering to redeem any goods or chattels, pawned or pledged with such pawnbroker or pawnbrokers, either as profit upon any sum lent, or as part principal and part profit, shall amount to a total sum, of which the piece of money of the lowest denomination shall be one farthing; and where the person or persons so applying, or offering to redeem such goods or chattels, shall have paid down the sum due for such principal and profit, or for such profit only (as the case may be),

(a) The taking a greater rate subjects the pawnbroker to the penalties imposed by s. 26, *post*, 148; and the allowance of the specified rates is not merely a dispensation from the law of usury. (*R. v. Beard*, 12 *East*, 673; *post*, 148.) In *Cowie v. Harris*, it was held that, if a pawnbroker, upon one contract or bargain of loan, advance more than 10*l.*, *viz.* 100*l.*, and pretend to divide the same as if there were ten different loans, and for that purpose gives several tickets, dated on different days, the transaction is a mere contrivance to conceal usury, and is illegal and void. (1 *Moody & M., C. N. P.* 141.)

Where a pawnbroker advanced 200*l.* to a trader in distress, upon a deposit of silks, and entered the transaction in his books as several advances, each of less than 10*l.*, but amounting in the whole to 200*l.* The trader having become bankrupt, and his assignee having sued in trover for the silks, the Court refused to disturb a verdict found for the plaintiff, upon a direction to the jury, to find whether the goods had been deposited on a contract to pay more than 5*l. per cent.* interest. (*Tregoning v. Attenborough*, 7 *Bing.* 97; 4 *M. & P.* 722, S. C.)

except the last remaining farthing, and shall not be able to produce and pay to such pawnbroker or pawnbrokers, his, her, or their servant or agent, a current farthing, and which shall be to the satisfaction and liking of such person or persons to receive the same, but shall, in lieu thereof, tender to such person or persons to receive the same one halfpenny, in order to discharge the said remaining farthing so due as aforesaid, the said pawnbroker or pawnbrokers, his, her, or their servant or agent, to whom such tender of a halfpenny for such purpose as aforesaid shall be made, shall, in exchange thereof, deliver unto such person or persons so redeeming goods as aforesaid, one good and lawful farthing, of the current coin of this kingdom, or in default thereof, shall wholly abate the said remaining farthing from the total sum to be received by him or them, of such person or persons so redeeming goods or chattels as aforesaid."

Sect. 5, "In all cases where the party or parties entitled to, and applying for the redemption of goods, pawned within the space of *seven* days after the expiration of the *first calendar month*, after the same shall have been pledged, he, she, or they shall and may be at liberty to redeem the same, without paying any thing by way of profit to the pawnbroker for the said seven days, or such part thereof as shall then have elapsed; and that, in all cases where the party or parties so entitled, and applying as aforesaid, after the expiration of the said first seven days, and before the expiration of the *first fourteen* days of the second calendar month, he, she, or they shall and may be at liberty to redeem such goods, upon paying the profit payable for one calendar month, and the half of another calendar month, to the pawnbroker; but that, in all cases where the party or parties so entitled and applying as aforesaid, after the expiration of the said first fourteen days, and before the expiration of the said second calendar month, it shall be lawful for the pawnbroker to demand and take the profit of the whole second month; and that the like regulation and restriction shall take place, and be in force, in every subsequent calendar month, wherein application shall be made for redeeming goods pawned."

Limiting the profits for part of a month.

Sect. 6. "All and every person and persons who, from and after the commencement of this act, shall take, by way of pawn or pledge, of or from any person or persons whomsoever, any goods or chattels, of what kind soever the same shall be, and whereon shall be lent any sum of money exceeding five shillings, shall forthwith, and before he, she, or they shall or may advance or lend any money upon such pawn or pledge, enter, or cause to be entered, in a fair and regular manner, in a book or books, to be kept by him, her, or them, for that purpose, a description of the goods or chattels which he, she, or they shall receive in pawn, pledge, or exchange, and also the sum of money to be advanced or lent thereon, with the day of the month and year on which, and the name of the person or persons by whom such goods or chattels are so pawned, pledged, or exchanged, and the name of the street and number of the house, if the same shall be said to be numbered, where such person shall abide, and whether such person or persons is or are a lodger in or the keeper of such house, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner or owners of such goods and chattels, according to the information of the person pawning, pledging, or exchanging the same; into all which circumstances the pawnbroker is hereby required to inquire of the party pawning, before any money shall be lent or advanced. And, in all cases where the money lent on any such goods or chattels shall not exceed the sum of five shillings, such entry shall be made in such book or books by all and every such person and persons so taking the same by way of pawn, pledge, or exchange, as aforesaid, within four hours next after the said goods and chattels shall have been so pawned, pledged, or exchanged, as aforesaid; and every pledge upon which shall be lent any sum of money above ten shillings shall be entered in the manner aforesaid in a book or books, to be kept for that purpose, separate and apart from all other pledges whatever; and every such entry of such pledge whereon shall be lent any sum of money exceeding ten shillings, shall be numbered in such book or books progres-

Pawns to be entered in books.

39 & 40 G. 3, c. 99.

Pawnbrokers to
give a note de-
scribing things
pawned.

sively as they are received in pawn, in the manner following: viz. the first pledge that is received in pawn in the month of September next shall be numbered No. 1, the second No. 2, and so on progressively until the end of the month; and the first pledge that is received in the next month shall be numbered No. 1, and the second No. 2, and so on progressively and in like manner until the end of the month; and the like regulation with respect to the numbers of all pledges above ten shillings shall be observed in every succeeding month throughout the year; and upon every note or memorandum respecting any such pledge, whereon shall be lent any sum exceeding ten shillings as aforesaid, shall be fairly and legibly written or printed the number of the entry of such pledge, so entered in such book or books, as aforesaid; and every such person shall, at the time of the taking of every pawn, pledge, or exchange whatsoever, give to the person or persons so pawning, pledging, or exchanging the same, a note or memorandum, fairly and legibly written or printed, or in part written and in part printed, containing therein, in like manner, a description of the goods and chattels which he, she, or they have received in pawn, pledge, or exchange, and also the sum of money advanced thereon, with the day of the month and year on which, and the name and place of abode, and number of the house, if said to be numbered, of the person or persons by whom such goods or chattels are so pawned, pledged, or exchanged, and whether such person is a lodger or housekeeper, as aforesaid, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner or owners thereof, according to the information aforesaid; and upon which said note or memorandum, or on the back whereof, shall be moreover fairly written or printed the name and place of abode of the pawnbroker giving the same; which said note or memorandum the party and parties pawning, pledging, or exchanging the said goods or chattels shall, and he, she, or they is and are hereby required to accept and take in all cases; and the pawnbroker shall not receive and retain such pledge, unless the party pledging, or offering to pledge, the same shall accept and take such note or memorandum; and every such note, where the sum lent shall be less than five shillings, shall be delivered gratis; and where the sum lent shall be five shillings or upwards, and less than ten shillings, such pawnbroker shall and may take one halfpenny for the same; and where the sum lent shall be ten shillings or upwards, and less than twenty shillings, such pawnbroker shall and may take one penny for the same; and where the sum lent shall be twenty shillings or upwards, and less than five pounds, the sum of twopence for the same; and where the sum lent shall be five pounds or upwards, the sum of fourpence, and no more; and which note shall be produced to the pawnbroker before he or she shall be obliged to re-deliver the respective goods or chattels, except as hereinafter is excepted."

Amount of profits
to be indorsed on
duplicates of
pledges redeemed.

Sect. 7. "In all cases where any goods or chattels pawned or pledged shall be redeemed, the pawnbroker, of whom the same shall be redeemed, shall, at the time of such redemption, fairly and legibly write or indorse, or cause to be written or indorsed, upon every duplicate respecting such pawn or pledge, the amount of the profit taken by him, or on his account, on the money lent upon such goods or chattels so redeemed, and shall keep such duplicate in his custody for the space of one year then next following."

Penalty against
unlawfully pawn-
ing goods, the pro-
perty of others(a);

Sect. 8. "If any person or persons shall knowingly and designedly pawn, pledge, or exchange, or unlawfully dispose of the goods or chattels of any other person or persons, not being employed or authorized by the owner or owners thereof so to do, it shall be lawful for any justice to grant his warrant to apprehend any person so offending; and, if he, she, or they, shall be thereof convicted, by the oath of any credible witness or witnesses, or by the confession of the person or persons charged with such offence,

(a) The 1 Jac. I. c. 21, enacts, that the miles thereof, shall not alter the pro-
sale of any goods wrongfully taken to any perty. And see the 30 Geo. II. c. 24,
pawnbroker in London, or within two s. 3.

before any justice or justices of the peace for the county, riding, division, city, liberty, town, or place, where the offence shall be committed (which oath every such justice or justices, as aforesaid, is and are hereby empowered and required to administer), every such offender shall, for every such offence, forfeit any sum not exceeding five pounds, nor less than twenty shillings, and also the full value of the goods or chattels so pawned, pledged, or exchanged, or disposed of, such value to be ascertained by such justice or justices; and, in case the said forfeiture shall not be forthwith paid, the justice or justices of the peace, as aforesaid, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or some other public prison of the county, riding, division, city, liberty, town, or place, wherein the offender or offenders shall reside, or be convicted, there to remain and be kept to hard labour for a space not exceeding three calendar months, unless the said forfeitures shall be sooner paid (a), and if, within three days before the expiration of the said term of commitment, the said forfeitures shall not be paid, the said justice or justices, at his or their discretion, may order the person or persons so convicted to be publicly whipped (b) in the house of correction or prison to which the offender or offenders shall have been committed, or in some other public place, of the county, riding, division, city, liberty, town, or place, where the offence shall have been committed, as to such justice or justices shall seem proper; and the said respective forfeitures, when recovered, shall be applied towards making satisfaction thereout to the party or parties injured, and defraying the costs of the prosecution, as shall be adjudged reasonable by the justice or justices before whom such conviction shall be had; but, if the party or parties injured shall decline to accept of such satisfaction and costs, or if there shall be any overplus of the said respective forfeitures, after making such satisfaction and paying such costs, as aforesaid, then such respective forfeitures, or the overplus thereof (as the case shall happen), shall be paid and applied to and for the use of the poor of the parish or place where such offence shall have been committed, and shall be paid to the overseers of the poor of such parish or place for that purpose."

Sect. 9. "If any person or persons whomsoever shall counterfeit, forge, or alter, or cause or procure to be counterfeited, forged, or altered, any such note or memorandum as aforesaid, or shall utter, vend, or sell, any such note as aforesaid, knowing the same to be counterfeited, forged, or altered, with intent to defraud any person or persons whomsoever, in all, or any, or either, of the said cases, such person or persons shall be punished in manner hereinafter mentioned; and it shall be lawful for any person or persons, his, her, or their servants or agents, to whom any note shall be uttered or produced, shown, or offered, which he, she, or they shall have reason to suspect to have been counterfeited, forged, or altered, to seize and detain such person or persons uttering, producing, showing, or offering the same, and to deliver him, her, or them, as soon as conveniently may be, into the custody of a constable, or other peace officer, who shall, and is hereby required, as soon as conveniently may be, to convey such person or persons before some justice or justices of the peace for the county, riding, division, city, liberty, town, or place, wherein the offence shall be supposed to have been committed; and if, upon examination, it shall appear to the satisfaction of such

from 5*l.* to 20*s.*, and the value of the goods; or imprisonment not exceeding three months, and whipping.

Penalty on forging, counterfeiting, or uttering notes.

(a) A. having deposited with B. certain goods as a security, a dispute arose concerning the goods, upon which B. obtained from C., a police magistrate, a summons requiring A.'s appearance on a day named. Upon the appearance before C., B. made oath to a written information that he believed the goods to have been illegally pawned or disposed of by A. C. gave a further day to the parties, when, after evidence being gone into, C. committed A. for re-examination on a charge of suspicion of having unlawfully disposed of the goods of

B. It was held that that charge was not sufficiently made so as to give the magistrate jurisdiction over the matter under the above 8th section. *Tate v. Chambers*, 3 Nev. & M. 523.)

Query, whether, in a case upon this statute, properly brought before a magistrate, the party may be committed for re-examination. (*Id.*)

(b) The whipping of females is abolished. See 1 Geo. IV. c. 57, *post*, "Whipping."

39 & 40 G. 3, c. 99.

Imprisonment.

Persons not giving a good account of themselves on offering to pawn goods, liable to punishment, [And see the 30 Geo. 3, c. 24, s. 7, 8.]

justice or justices, that the person or persons charged with having committed any such offence is or are guilty thereof, then, and in every such case, the said justice or justices is and are hereby authorized and required to commit the party or parties offending to the common gaol or house of correction of the county, riding, division, city, liberty, town, or place, wherein the offence shall be committed, there to be imprisoned for any time not exceeding the space of three calendar months, at the discretion of such justice or justices."

Sect. 10. "In case any person or persons, who shall offer by way of pawn, pledge, exchange, or sale, any goods or chattels, shall not be able, or shall refuse to give a satisfactory account of himself, herself, or themselves, or of the means by which he, she, or they became possessed of such goods or chattels, or shall wilfully give any false information to the pawnbroker, or to his or her servant or servants, as to whether such goods or chattels are his, her, or their own property or not, or of his or her name and place of abode, or of the name and place of abode of the owner or owners of the said goods or chattels, or if there shall be any other reason to suspect that such goods or chattels are stolen, or otherwise illegally or clandestinely obtained, or if any person or persons not entitled, nor having any colour of title by law to redeem goods or chattels in pledge or pawn, shall attempt or endeavour to redeem the same, it shall be lawful for any person or persons, his, her, or their servants or agents, to whom such goods or chattels shall be so offered, or with whom such goods or chattels are in pledge, to seize and detain such person or persons, and the said goods or chattels, and to deliver such person or persons immediately into the custody of a constable or other peace officer, who shall and is hereby required, as soon as may be, to convey such person or persons, and the said goods or chattels so offered, before some justice or justices of the peace for the county, riding, division, city, liberty, town, or place, wherein the offence shall be supposed to have been committed; and if such justice or justices shall, upon examination and inquiry, have cause to suspect that the said goods or chattels were stolen, or illegally or clandestinely obtained, or that the person or persons offering and endeavouring to redeem the same shall not have any pretence or colour of right to redeem the same, it shall be lawful for such justice or justices to commit such person or persons into safe custody, for such reasonable time as shall be necessary for the obtaining proper information on the subject, in order to be further examined; and if, upon either of the said examinations, it shall appear to the satisfaction of such justice or justices that the said goods or chattels were stolen, or illegally or clandestinely obtained, or that the person or persons offering or endeavouring to redeem the same hath or have not any pretence or colour of right so to do, the said justice or justices is and are hereby authorized and required to commit the party or parties offending to the common gaol or house of correction of the county, riding, division, city, liberty, town, or place, wherein the offence shall be committed, there to be dealt with according to law, where the nature of the offence shall authorize such commitment by any other law; and where the nature of the offence shall not authorize such commitment by any other law, then such commitment shall be for any time not exceeding three calendar months, at the discretion of such justice or justices."

Persons buying or taking in pledge unfinished goods or linen, or apparel intrusted to others to wash or mend, to forfeit double the sum lent, and restore the goods. [And see 30 Geo. 2, c. 24, s. 6.]

Sect. 11. "If any person or persons shall knowingly buy or take in as a pledge or pawn, or in exchange, any goods of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials whatsoever, plainly intended for the composing or manufacturing of any goods, after such goods or materials respectively are put into a state or course of manufacture, or into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials are completed or finished for the purposes of wear or consumption, or any linen or apparel, which goods, materials, linen, or apparel are or shall be intrusted to any person or persons to wash, scour, iron, mend, manufacture, work up, finish, or make up, and shall be convicted of the same, *on the oath of one credible witness, or on confession of the party or parties*, before one or more justice or justices, every such person or persons shall forfeit double the sum given for or lent on the same, to be paid to the poor of the parish where

the offence is committed, to be recovered in the same manner as any other forfeitures are by this act directed to be recovered, and shall likewise be obliged to restore the said goods and materials to the owner or owners thereof, in the presence of the said justice or justices."

Sect. 12. "If the owner or owners of any goods of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials whatsoever, plainly intended for the composing or manufacturing of any goods, after such goods or materials respectively are put into a state or course of manufacture, or into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials are completed or finished for the purposes of wear or consumption, or any linen or apparel, which goods, materials, linen, or apparel are or shall be, so intrusted as aforesaid, unlawfully pawned, pledged, or exchanged, shall make out, either on his, her, or their oath, or by the oath of any credible witness, or, being one of the people called Quakers, by solemn affirmation, before any justice or justices of the peace, within his or their jurisdiction, that there is just cause to suspect that any person or persons, within the jurisdiction of any such justice or justices, hath or have taken to pawn, or by way of pledge, or in exchange, any such goods or materials, linen, or apparel, so intrusted as aforesaid, of such owner or owners, and without the privity or authority of such owner or owners thereof, and shall make appear to the satisfaction of any such justice or justices probable grounds for such the suspicion of the owner or owners thereof, then and in any such case, any justice or justices of the peace, within his or their jurisdiction, may issue his or their warrant for searching, within the hours of business, the house, warehouse, or other place of any such person or persons who shall be charged, on oath or affirmation as aforesaid, as suspected to have received or taken in pawn, or by way of pledge, or in exchange, any such goods or materials, linen, or apparel, without the privity of or authority from the owner or owners thereof; and if the occupier or occupiers of any house, warehouse, or other place wherein any such goods, materials, linen, or apparel shall on oath or affirmation, as aforesaid, be charged or suspected to be, shall, after the commencement of this act, on request made to him, her, or them, to open the same, by any peace officer authorized to search there by warrant from any justice or justices of the peace for the county, riding, division, city, liberty, town, or place in which such house, warehouse, or other place shall be situate, refuse to open the same, and permit the same to be searched, it shall be lawful for any peace officer to break open any such house, warehouse, or other place, within the hours of business, and to search as he shall think fit therein for the goods, materials, linen, or apparel suspected to be there, doing no wilful damage; and no pawnbroker or other person or persons shall oppose or hinder any such search; and if, upon the search of the house, warehouse, or other place of any such suspected person or persons as aforesaid, any of the goods, materials, linen or apparel, which shall have been so pawned, pledged, or exchanged as aforesaid, shall be found, and the property of the owner or owners thereof shall be made out to the satisfaction of any such justice or justices, by the oath of one or more credible witness or witnesses, or if any such witness or witnesses shall be of the people called Quakers, by solemn affirmation, or by the confession of the person or persons charged with any such offence, any such justice or justices shall thereupon cause the goods, materials, linen, or apparel, found on any such search, and pawned, pledged, or exchanged as aforesaid, to be forthwith restored to the owner or owners thereof."

Empowering peace officers to search for unfinished goods, &c. unlawfully come by, which shall be restored to the owner. [And see 30 Geo. 2, c. 24, s. 9.]

Sect. 13. "If the owner or owners of any goods or chattels unlawfully pawned, pledged, or exchanged, shall make out, either on his, her, or their oath, or by the oath of any credible witness, or being one of the people called Quakers, by solemn affirmation, before any justice or justices of the peace within his or their jurisdiction, that such owner or owners hath or have had his, her, or their goods or chattels unlawfully obtained or taken

Where goods are unlawfully pawned, the pawnbroker to restore them, (a).

(a) This provision does not it seems and the real owner is not bound to tender take away the common law remedy, by the duplicate. (*Pect v. Baxter*, 1 Stark. demand and action of trover or detinue, 472; *Hartop v. Hoare*, 1 Wils. 8;

39 & 40 G. 3, c. 99. from him, her, or them, and that there is just cause to suspect that any person or persons within the jurisdiction of any such justice or justices hath or have taken to pawn, or by way of pledge or in exchange, any goods or chattels of such owner or owners, and without the privity or authority of such owner or owners thereof, and shall make appear to the satisfaction of any such justice or justices probable grounds for such the suspicion of the owner or owners thereof, then and in any such case any justice or justices of the peace within his or their jurisdiction, may issue his or their warrant for searching within the hours of business, the house, warehouse, or other place of any such person or persons who shall be charged on oath or affirmation as aforesaid, as suspected to have received or taken in pawn, or by way of pledge or in exchange, any such goods or chattels, without the privity of or authority from the owner or owners thereof; and if the occupier or occupiers of any house, warehouse, or other place wherein any such goods or chattels shall, on oath or affirmation as aforesaid, be charged or suspected to be, shall, after the commencement of this act, on request made to him, her, or them, to open the same by any peace officer authorized to search there, by warrant from a justice or justices of the peace for the county, riding, division, city, liberty, town, or place, in which such house, warehouse, or other place, shall be situate, refuse to open the same and permit the same to be searched, it shall be lawful for any peace officer to break open any such house, warehouse, or other place, within the hours of business, and to search as he shall think fit therein, for the goods or chattels suspected to be there, doing no wilful damage; and no pawnbroker, or other person or persons, shall oppose or hinder any such search; and if, upon the search of the house, warehouse, or other place of any such suspected person or persons as aforesaid, any of the goods or chattels which shall have been so pawned, pledged, or exchanged, as aforesaid, shall be found, and the property of the owner or owners from whom the same shall have been unlawfully obtained or taken, shall be made out to the satisfaction of any such justice or justices, by the oath of one or more credible witness or witnesses, or if any such witness or witnesses shall be of the people called Quakers, by solemn affirmation, or by the confession of the person or persons charged with any such offence, any such justice or justices shall thereupon cause the goods and chattels found on any such search, and pawned, pledged, or exchanged as aforesaid, to be forthwith restored to the owner or owners thereof."

Penalty on pawnbroker who will not deliver up goods to pawner.

Sect. 14. "If any goods or chattels shall be pawned or pledged for securing any money lent thereon, not exceeding in the whole the principal sum of ten pounds, and the profit thereof, and if within one year after the pawning or pledging thereof, (proof having been made on oath or affirmation as aforesaid (a) by one or more credible witness or witnesses, and by producing the note or memorandum directed to be given by this act as aforesaid, before any justice or justices, to the satisfaction of any such justice or justices, of the pawning or pledging of any such goods or chattels within the said space of one year, or one year and three months, as the case may be,) any such pawner or pawners who was or were the real owner or owners of such goods or chattels at the time of the pawning or pledging thereof, his, her, or their executors, administrators, or assigns, shall tender unto the person or persons who lent, on the security of the goods or chattels pawned, his executors, administrators, or assigns, the principal money borrowed thereon, and profit, according to the table of rates by this act established; and the person who took such goods or chattels in pawn, his or her executors, administrators, or assigns, shall thereupon, *without showing (b) reasonable cause for so doing,*

2 *Stra.* 1187; 3 *Atk.* 44, &c.; *Packer v. Gillies*, 2 *Campb.* 336; *sed vide Parker v. Patrick*, 5 *T.R.* 175.) There is no market overt for pawning. (*Ib. ibid.*; *Chit. Col. St.* 755.)

(a) The 5 & 6 Wil. IV. c. 62, substitutes a declaration for the oaths required by any act in force for regulating the busi-

ness of pawnbrokers. See the enactment, *post*, 152, and title "*Oaths*," Vol. III.

(b) A pawnee is bound to observe more than ordinary care over the thing bailed; and if goods be taken out of his possession through stealth or by want of due care, he will be liable, but not if the goods are forcibly taken out of his pos-

to the satisfaction of such justice or justices, neglect or refuse to deliver back the goods or chattels so pawned, for any sum or sums of money not exceeding the said principal sum of 10*l.*, to the person or persons who borrowed the money thereon, his, her, or their executors, administrators, or assigns, then and in any such case, on oath or affirmation as aforesaid thereof, made by the pawner or pawners thereof, his, her, or their executors, administrators, or assigns, or some other credible person, any justice or justices of the peace for the county, riding, division, city, liberty, town, or place, where the person or persons who took such pawn as aforesaid, his executors, administrators, or assigns shall dwell, on the application of the borrower or borrowers, his, her, or their executors, administrators, or assigns, is and are hereby required to cause such person or persons who took such pawn, his, her, or their executors, administrators, or assigns, within the jurisdiction of the justice or justices, to come before such justice or justices; and such justice or justices is and are hereby authorized and required to examine, on oath or solemn affirmation, as the case may require, the parties themselves, and such other credible person or persons as shall appear before him or them touching the premises; and if tender of the principal money due, and all profit thereon, as aforesaid, shall be proved by oath or affirmation as aforesaid to have been made (such principal money not exceeding the said sum of ten pounds) to the lender or lenders thereof, his, her, or their executors, administrators, or assigns, by the borrower or borrowers of such principal money, his, her, or their executors, administrators, or assigns, within the said space of one year, or one year and three months, as the case may be, after the said pawning or pledging of the goods or chattels, then on payment by the borrower or borrowers, his, her, or their executors, administrators, or assigns, of such principal money, and the profit due thereon, as aforesaid, to the lender or lenders, his, her, or their executors, administrators, or assigns; and in case the lender or lenders, his, her, or their executors, or administrators, or assigns, shall refuse to accept thereof, on tender thereof to him, her, or them, made by the borrower or borrowers thereof, his, her, or their executors, administrators, or assigns, before any such justice or justices, such justice or justices shall thereupon, by order under his or their hand or hands, direct the goods or chattels so pawned forthwith to be delivered up to the pawner or pawners thereof, his, her, or their executors, administrators, or assigns; and if the person or persons who shall have lent any principal sum or sums of money, not exceeding in the whole the said sum of ten pounds, on any goods or chattels pawned, his, her, or their executors, administrators, or assigns, shall neglect or refuse to deliver up, or make satisfaction for the goods or chattels, which shall be so proved to the satisfaction of such justice or justices as aforesaid to have been so pawned, as any such justice or justices of the peace as aforesaid shall order and direct, then any such justice or justices shall, and is and are hereby authorized and required to commit (a) the party or parties so refusing to deliver up or make satisfaction for the same, to the house of correction, or some other public prison, for the county, riding, division, city, liberty, town, or place, wherein the offender or offenders shall reside or be convicted, there to remain without bail or mainprize, until he, she, or they shall deliver up the goods or chattels so pawned, and continuing redeemable as aforesaid, according to the order of such justice or justices as aforesaid, or make such satisfaction or compensation as such justice or justices shall adjudge reasonable for the value thereof, to the party or parties entitled to the redemption of such goods or chattels so pawned, and continuing redeemable as aforesaid."

39 & 40 G. 3, c. 99.

Imprisonment till re-delivery of the goods, or satisfaction made.

Sect. 15. "To prevent any inconvenience to persons carrying on the trade and business of a pawnbroker, from several different persons claiming a property in the same goods or chattels, be it further enacted, that from and after

Persons producing notes or memorandums deemed the owners.

session, unless through his fault. (*Sir W. Jones*, 75, 79; *Coggs v. Barnard*, *Ld. Raym.* 917. And see *Clark v. Earnshaw*, *Gow's C. N. P.* 30.) incorporated with sec. 24th, *post*, 147, so as to enable justices to commit under that section. (*Ex p. Cording*, 4 *B. & Ad.* 198; 1 *N. & M.* 35, *S. C.*)

(a) This enactment is not in any way

39 & 40 G. 3, c. 99. the commencement of this act, any person or persons who shall at any time produce any such note or memorandum as aforesaid, to the person or persons with whom the goods therein specified were pawned or pledged, as the owner thereof, or as authorized by the owner thereof, to redeem the same, and require a delivery of the goods or chattels mentioned therein, to him, her, or them, such person or persons shall be, and is and are hereby deemed and taken to be, so far as respects the person or persons having such goods and chattels in pledge, the real owner and owners, proprietor and proprietors, of such goods and chattels, and the person or persons so using the said trade and business of a pawnbroker shall be, and is and are hereby directed and required, after receiving satisfaction pursuant to the provisions of this act, respecting principal and profit, to deliver such goods and chattels to the person or persons who shall so produce the said note or memorandum to him, her, or them, and shall be, and is and are hereby indemnified for so doing, unless he, she, or they shall have had previous notice from the real owner or owners thereof not to deliver the same to the person or persons producing such note, or unless notice shall have been given to him, her, or them, that the goods and chattels pawned have been, or are suspected to have been, fraudulently or feloniously taken or obtained, and unless the real owner or owners thereof proceeds or proceed, in manner hereinafter provided and directed for the redeeming of goods and chattels pledged, where such note hath been lost, mislaid, destroyed, or fraudulently obtained from the owner or owners thereof."

Where notes or memorandums lost, pawnbroker to deliver a copy.

Sect. 16. "In case any pawnbroker shall have had such previous notice as aforesaid, or in case any such note or memorandum as aforesaid shall be lost, mislaid, destroyed, or fraudulently obtained from the owner or owners thereof, and the goods and chattels mentioned therein shall remain unredeemed, that then and in every such case the pawnbroker or pawnbrokers with whom the said goods and chattels were so pledged, shall, at the request and application of any person or persons who shall represent himself, herself, or themselves to the pawnbroker as the owner or owners of the goods and chattels in pledge as aforesaid, deliver to such person or persons so requesting and applying for the same, a copy of the note or memorandum so lost, mislaid, destroyed, or fraudulently obtained as aforesaid, with the form of an affidavit of the particular circumstances attending the case, printed or written, or in part printed and in part written, on the said copy, as the same shall be stated to him or her by the party applying as aforesaid, for which copy of such note or memorandum, and form of affidavit, in case the money lent shall not exceed the sum of five shillings, the pawnbroker shall receive the sum of one halfpenny; and in case the money lent shall exceed the sum of five shillings, and not exceed the sum of ten shillings, the pawnbroker shall receive the sum of one penny; and in case the money lent shall exceed the sum of ten shillings, the pawnbroker shall receive the like sum of money as he is entitled to receive and take on giving the original note or memorandum, such money to be paid by the party applying for the same at the time of making the said application; and the person or persons having so obtained such copy of the note or memorandum, and form of affidavit as aforesaid, shall thereupon prove his, her, or their property in, or right to, such goods and chattels, to the satisfaction of some justice of the peace for the county, riding, division, city, town, liberty, or place, where the said goods or chattels shall have been pledged, pawned, or exchanged, and shall also verify, on oath or affirmation, as the case may be, before the said justice, the truth of the particular circumstances attending the case mentioned in such affidavit or affirmation to be made as aforesaid, the caption of such oath or affirmation to be authenticated by the hand-writing thereto of the justice before whom the same shall be made, and who shall, and is hereby required, so to authenticate the same; whereupon the pawnbroker shall suffer the person or persons proving such property to the satisfaction of such justice as aforesaid, and making such affidavit or affirmation as aforesaid, on leaving such copy of the said note or memorandum, and the said affidavit or affirmation, with the said pawnbroker, to redeem such goods or chattels."

Sect. 17. "All goods and chattels which shall be pawned or pledged shall be deemed forfeited, and may be sold, at the expiration of one whole year, exclusive of the day whereon the goods and chattels were so pawned as aforesaid; and all goods and chattels so forfeited, on which any sum above ten shillings, and not exceeding ten pounds, shall have been lent, shall be sold by public auction, and not otherwise, by the order of the person having the same in pawn, at and after the expiration of the said year; but the person employed to sell such goods and chattels by auction shall, and he is hereby required to cause the same to be exposed to public view, and catalogues thereof to be published, containing the name and place of abode of the pawnbroker, and also the month such goods were received in pawn; and the number of every such pledge as entered in the book or books kept for that purpose, at the time the same were pawned, and an advertisement, giving notice of such sale, and containing the name or names and place of abode of the pawnbroker or pawnbrokers with whom the said goods or chattels were in pledge, and also the month such goods were received in pawn, to be inserted two several days in some public newspapers, two days at least before the first day of sale; and the goods and chattels pledged with every pawnbroker shall be inserted in every catalogue, separate and apart from each other, upon pain of forfeiting to the owner or owners of the said goods and chattels, for every offence in the premises, any sum not exceeding ten pounds, nor less than forty shillings."

39 & 40 G. 3, c. 99.

Pawned goods deemed forfeited at the end of a year. Pledges above 10s. to be sold by auction (a).

Sect. 18. "All pictures, prints, books, bronzes, statues, busts, carvings in ivory and marble, cameos, intaglieos, musical, mathematical, and philosophical instruments, and china, which shall be sold by public auction as aforesaid, shall be sold by themselves, and without other goods being sold at such sale, four times only in every year (that is to say) on the first Monday in the months of January, April, July, and October, in every year, and on the following day and days, if the sale shall exceed one day, and at no other time; and the person who shall be employed to sell the same by auction shall, and he is hereby required to cause the same to be exposed to public view, and catalogues thereof to be published, and an advertisement giving notice of such sale, and containing the name or names of the pawnbroker or pawnbrokers with whom the said goods were in pledge, to be inserted two several days in some public newspaper, three days at the least before the first day of sale, upon pain of forfeiting to the owner or owners of the said goods, for every offence in the premises, any sum not exceeding five pounds nor less than forty shillings."

Pictures, prints, books, statues, &c. shall only be sold four times in a year, &c.

Sect. 19. "In case any person or persons entitled to redeem goods or chattels in pledge, shall, before or upon the expiration of the said one year from the time of pawning the same, give notice in writing, or in the presence of one witness, to the person or persons having the same in pledge, or leave the same at his, her, or their usual place of abode, not to sell the same at the end of the said one year, then, and in every such case, such goods or chattels shall not be sold or disposed of by the person or persons having the same in pledge until after the expiration of three calendar months, to be computed from the expiration of the said year, during which said term of three calendar months the owner or owners of the said goods and chattels shall have liberty to redeem the same, upon the terms stipulated and provided by this act."

On notice from persons having goods in pledge not to sell, three months further allowed beyond the year for redemption (a).

Sect. 20. "All and every person or persons with whom any goods or chattels shall have been pawned or pledged, shall from time to time enter in a book or books, to be kept by him, her, or them for that purpose, a true and just account of the sale of all goods and chattels pawned with him, her, or them, for upwards of ten shillings (b), which shall be sold as aforesaid,

Account of sales of pledges above 10s. to be entered by the pawnbrokers in a book;

(a) A pawnbroker has no right to sell unredeemed pledges after the expiration of the year, if the original owner tender the principal and interest due before actual sale. (*Walter v. Smith*, 5 B. & Ald. 439; 1 D. & R. 1, S. C.) (b) A very unfair advantage has been generally taken by pawnbrokers of

39 & 40 G. 3, c. 99. expressing the day of the month when such goods were pledged, and the name of the person pledging the same, according to the entry made at the time of receiving the same in pawn; and also the day when, and the money for which, such goods or chattels pawned were sold, together with the name and place of abode of the auctioneer by whom the same were sold, according to the information thereof from the auctioneer; and in case any such goods or chattels shall be sold for more than the principal money and profit aforesaid due thereon at the time of such sale, the overplus shall, by every such pawnbroker, be paid, on demand, to the person by whom or on whose account such goods or chattels were pawned, his, her, or their executors, administrators, or assigns, in case such demand shall be made within three years after such sale, the necessary costs and charges of such sale being first deducted; and such person or persons who pawned or pledged such goods or chattels, or for whom such goods or chattels were so pawned or pledged, his, her, or their executors, administrators, or assigns, shall, for his, her, or their satisfaction in this matter, be permitted to inspect the entry to be made as aforesaid of every such sale, paying for such inspection the sum of one penny and no more; and in case any person or persons shall refuse to permit any such person or persons who pawned or pledged such goods or chattels, or who is or are entitled to such overplus money, to inspect such entry as aforesaid in any such book or books, (such person or persons, if an executor or executors, administrator or administrators, or assignee or assignees, at such time producing his, her, or their letters testamentary, letters of administration or assignment,) or in case the goods or chattels were sold for more than the sum entered in any such book or books, or if any such person or persons shall not make such entry as aforesaid, or shall not have *bonâ fide*, according to the directions of this act, sold the same, or shall refuse to pay such overplus, upon demand, to the pawner or pawners, owner or owners, his, her, or their executors, administrators, or assigns, (he, she, or they producing such their letters testamentary, letters of administration or assignment,) every such person or persons so offending shall, for every such offence, forfeit the sum of ten pounds, and treble the sum such goods and chattels shall originally have been pawned for, to the person or persons by whom or on whose account such goods and chattels were pawned, his, her, or their executors, administrators, or assigns, to be levied by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of any two justices of the peace for the county, riding, division, city, town, liberty, or place, where the offence shall be committed."

and overplus paid to owner of goods pawned or sold, &c.

on penalty of 10*l*. and treble the sum lent on pawn.

Pawnbroker shall not purchase goods while in his custody.

Pledges not to be taken from persons under twelve years of age or intoxicated.

Sect. 21. "No person or persons having any goods or chattels in pledge, shall, under any pretence whatsoever, either by himself or herself, or by any other person for him or her, purchase any such goods or chattels so being in pledge with him or her, during the time the same shall remain in his or her custody as such pledge, save and except at such public auction as aforesaid, nor shall suffer the same to be redeemed with a view or intention to purchase the same; nor shall any such person taking or having any goods or chattels in pledge, make or cause to be made any contract or agreement with any person or persons offering to pledge or pledging the same, or with the owner or owners of the pledge, for the purchase, sale, or disposition of the said goods and chattels before the expiration of one whole year from the time of pawning or pledging the same; nor shall any pawnbroker purchase or receive or take any goods or chattels in pledge of or from any person or persons who shall appear to be under the age of twelve years, or to be intoxicated with liquor; or purchase or take in pawn, pledge, or exchange the note or memorandum aforesaid of any other pawnbroker; nor buy any goods or chattels in the course of his, her, or their trade or business, before

this distinction, where goods of considerably greater value than ten shillings are pledged for less than that amount; the absolute forfeiture of such goods being

very commonly insisted upon. (Mr. Evans's Note in his Coll. Stat.; 1 Chit. Coll. Stat. 757.)

the hour of eight of the clock in the forenoon, or after the hour of seven of the clock in the evening throughout the year; nor employ any servant or apprentice, or any other person under the age of sixteen years, to take in any pledge or pledges; nor receive or take in any goods or chattels by way of pawn, pledge, or in exchange, before eight of the clock in the forenoon, or after eight of the clock in the evening, between Michaelmas Day and Lady Day following; or before seven of the clock in the forenoon, or after nine of the clock in the evening, during the remainder of the year, excepting only until eleven of the clock in the evenings of Saturday throughout the whole year, and the evenings preceding Good Friday and Christmas Day, and every fast and thanksgiving day to be appointed by his majesty; nor shall any person or persons exercise or carry on the trade or business of a pawnbroker on any Sunday, Good Friday, Christmas Day, or on any fast day or thanksgiving day to be appointed as aforesaid."

39 & 40 G. 3, c. 99.
Hours of buying goods or taking in pawn limited.

Sect. 22. "All and every person and persons who shall follow and carry on the trade and business of a pawnbroker, shall cause to be painted or printed, in large legible characters, the rate of profit allowed by this act to be taken by him, her, or them, and also the various prices of the notes or memorandums to be given by him, her, or them, according to the rates aforesaid, and an account of what notes or memorandums are to be delivered gratis, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed, or fraudulently obtained, and place the same in a conspicuous part or parts of the shop or other place wherein he, she, or they shall carry on such trade or business, so as to be visible to and legible by the persons pledging goods and chattels standing in the several boxes or places provided for such persons coming to pawn or redeem goods and chattels at such shop."

Pawnbrokers to place in view the table of profits, &c.

Sect. 23. "For the better manifesting by whom the trade or business of a pawnbroker shall hereafter be carried on," enacts that "all and every person or persons who shall follow or carry on the trade or business of a pawnbroker, shall cause to be painted or written, in large legible characters, over the door of *each* shop or other place by him, her, or them respectively made use of for carrying on that trade or business, the *Christian* and *surname* (a) or names of the person or persons so carrying on the said trade or business, and the word '*Pawnbroker*,' or '*Pawnbrokers*,' as the case may be, following the same, upon pain of forfeiting the sum of ten pounds for every shop or place which shall be so made use of for the space of one week without having such name or names, and the said word, so painted or written as aforesaid, to be recovered by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of any two justices of the peace acting within the respective county, riding, division, city, town, liberty, or place (which warrant such justices are hereby authorized and required to grant), upon the confession of the party or parties, or upon the information of any credible witness or witnesses, upon oath or affirmation, as the case may be; and in case sufficient distress shall not be found, or such penalty shall not be forthwith paid, it shall be lawful for such justices, and they are hereby required by warrant under their hands and seals, to cause the offender or offenders to be committed to the county gaol or house of correction, there to remain without bail or mainprize, for any time not exceeding three calendar months, nor less than fourteen days,

Pawnbroker's names and business to be placed over his door on penalty of 10*l.* &c. (a).

Distress.

Commitment.

(a) Two persons carried on the business of pawnbrokers under a deed of partnership. The business was conducted solely in the name of one, and his name only appeared over the shop door, and on the printed tickets and duplicates used by pawnbrokers; and the person who conducted the business only was licensed. The court it seems were of opinion, that although the parties might have made themselves liable to the penalty imposed by the above enactment, and

s. 26, yet that it being no part of the contract to carry on the partnership in such manner as to contravene the law, the contract was not void. *Armstrong v. Lewis*, 2 C. & M. 274; 4 M. & Scott, 1, S. C. In another case, however, the Court of Chancery held that an agreement for a secret partnership, is a contravention of the laws regulating the business of a pawnbroker, and that no legal partnership was constituted thereby. (*Armstrong v. Armstrong*, 3 Mylne & K. 45.)

39 & 40 G. 3, c. 99. unless the said penalty, and all reasonable charges, shall be sooner paid and satisfied."

Pawnbrokers selling goods before limited time, or injuring them, &c., shall make a reasonable satisfaction on penalty of 10*l*.

Sect. 24. "If in the course of any proceedings before any justice or justices of the peace in pursuance of or under this act, it shall appear, or be proved to the satisfaction of the justice or justices upon oath or solemn affirmation, that any of the goods and chattels pawned as aforesaid have been sold before the time allowed by this act, or otherwise than according to the directions of this act, or have been embezzled or lost (*a*), or are become or have been rendered of less value than the same were at the time of pawning or pledging thereof, by or through the default, neglect, or wilful misbehaviour (*b*) of the person or persons by whom the same were so pledged or pawned, his, her, or their executors, administrators, or assigns, agents or servants, then and in any such case it shall be lawful for every such justice and justices, and he and they is and are hereby required, to allow and award a reasonable satisfaction to the owner or owners of such goods or chattels in respect thereof, or of such damage; and the sum or sums of money so allowed or awarded, in case the same shall not amount to the principal and profit aforesaid, which shall appear to be due to any person or persons with whom the same were so pledged or pawned, his, her, or their executors, administrators, or assigns, shall be deducted out of the said principal and profit; and in all cases where the goods and chattels pawned as aforesaid shall have been damaged as aforesaid, it shall be sufficient for the pawner or pawners, his, her, or their executors, administrators, or assigns, to pay or tender the money due upon the balance, after deducting out of the principal and profit as aforesaid, for the goods or chattels pawned, such reasonable satisfaction in respect to such damage, as any such justice or justices shall order or award, and upon so doing, the justice or justices shall proceed as if the pawner or pawners, his, her, or their executors, administrators, or assigns, had paid or tendered the whole money due for the principal and profit aforesaid; and if the satisfaction to be allowed and awarded to the owner or owners of such goods or chattels, shall be equal to or exceed the principal and profit aforesaid, then and in such case the person or persons to whom the same were so pledged or pawned, his, her, or their executors, administrators, or assigns, shall deliver the goods and chattels so pledged to the owner or owners thereof, without being paid any thing for principal or profit in respect thereof, and shall also pay such excess (if any) to the person or persons entitled thereto, under the penalty of ten pounds, to be recovered and applied in manner hereinafter mentioned (*c*)."

Pawnbrokers shall produce their books when necessary,

Sect. 25. "It shall be lawful for any justice of the peace, upon complaint made to him on the oath or affirmation of one or more credible witness or witnesses, wherein any information shall be laid against any pawnbroker, for having offended against this act, or respecting any dispute between any pawnbroker and person having pawned goods, or the owner or owners of goods pawned, or respecting any felony or other matter, or on any other occasion whatsoever, which in the judgment of any justice or justices shall make the production of any book, note, voucher, memorandum, duplicate, or other paper necessary, which shall or ought to be in the hands, custody, or power of any pawnbroker, to summon such pawnbroker before him to attend, with all and every or any book, note, voucher, memorandum, duplicate, or paper which he or she may or ought to have in his or her custody or power relating to the same, which he or she is hereby required to produce before such justice or justices, in the state the same was or were made at the

(*a*) It is questionable whether a pawnbroker is answerable for pledges destroyed by accidental fire, as goods "lost" within the above clause. (*Ex p. Cording*, 4 B. & Ad. 199; 1 Nev. & M. 35, S. C.)

(*b*) It seems that these words "through the default," &c. apply to all cases previously mentioned, and not only to that of

the goods pawned having become of less value. (*Ex p. Cording*, 4 B. & Ad. 198; 1 Nev. & M. 35, S. C.)

(*c*) Justices have no power for offences, within this 24th section, to commit the offender in case he makes default in payment of the satisfaction awarded. (*Ex p. Cording*, 4 B. & Ad. 198; 1 Nev. & M. 35, S. C.)

time the pawn or pledge was received, without any alteration, erasement, or obliteration whatsoever; and in case such pawnbroker shall neglect or refuse to attend, or to produce the same in its true and perfect state, such pawnbroker shall, in case he or she doth not show good cause for such neglect or refusal, to the satisfaction of such justice or justices, forfeit any sum not exceeding ten pounds nor less than five pounds, to be levied and applied in the manner hereinafter mentioned."

Sect 26. "In case any pawnbroker shall in anywise offend against this act, every such pawnbroker shall, for every such offence in neglecting to make or cause to be made, in a fair and regular manner, in such book or books as aforesaid, any such entry as is required to be made by him, her, or them by this act, forfeit such sum of money as to the justice or justices, before and by whom any information thereon shall be heard and determined, in his or their discretion shall seem reasonable and fit, not exceeding the sum of ten pounds; and for every other offence against this act, where no forfeiture or penalty is provided, or imposed on any particular or specific offence against any part of this act, not less than forty shillings, nor more than ten pounds; and that all forfeitures incurred by any offence committed against this act shall and may be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal, or hands and seals, of any justice or justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed; and the justices shall award one moiety of the said penalties to the parties complaining, and the remainder of the aforesaid penalty or penalties, not otherwise disposed of and applied by this act, is to be paid and applied to and for the use of the poor of the parish or place where the offence shall have been committed, and shall be paid to the overseers of the poor of such parish or place for that purpose (b)."

39 & 40 G. 3, c. 99.
on penalty from
10*l.* to 5*l.*

Penalties on pawn-
brokers, in neg-
lecting entries,
not exceeding 10*l.*,
and for other of-
fences from 40*s.*
to 10*l.* (a).

For other offences
against the act.

Penalties enforce-
able by distress.

Application of pe-
nalties.

Sect. 27. No person or persons using or exercising the trade or business of a pawnbroker shall be subject or liable to any prosecution or information, before any justice or justices of the peace, by virtue of this act, for any offence or offences against this act, unless information shall be given of such offence or offences within twelve calendar months next after the offence or offences committed; and that all and every such information and informations shall be given and prosecuted before such justice or justices of the peace, as shall act as such justice or justices near to the place where such

Limiting time of
prosecution by in-
formation. Infor-
mation to be made
before a justice
near the place.

(a) *R. v. Beard*, 12 *East*, 672. This was an application for a mandamus to be issued to the defendant, a magistrate of Lancashire, commanding him to hear and determine an information exhibited before him by J. S. against Robert Rawlinson, a pawnbroker, for certain trespasses and contempts against the late Pawnbroker's Act of the 39 & 40 Geo. III. c. 99. The information laid before the magistrate on the 4th of June, 1810, charged that Rawlinson, a pawnbroker at Manchester, unlawfully demanded, received, and took from one J. S., in the name of J. D., on redeeming the pledge after mentioned, 6*d.* by way of profit for the loan of 3*s.*, the same being an intermediate sum exceeding 2*s.* 6*d.* and not exceeding 40*s.*, which, on the 5th of Dec. 1809, was lent by Rawlinson to J. S. on a pledge of two spoons, the said pledge not having remained in pawn any time exceeding six calendar months, being more than at the rate of 4*d.* for the loan of 20*s.*

by the calendar month, contrary to the statute; and then claimed a penalty of not less than 40*s.* nor more than 10*l.* The question was, whether this were a case for a summary conviction in a penalty within the statute; the magistrate thought it was not, and refused to proceed upon the information. The 2nd and 3rd sections of the said act were cited. No penalty is given by these clauses, but penalties are given by several clauses of the act for specific offences, and the act also contains many regulating clauses; s. 26 also was cited. (*Lord Ellenborough*, C. J.) It is prohibited by the act to take more than the stipulated rate of profit; and, therefore, the taking more is an offence against the act; and as no particular penalty is provided for that transgression, it falls within the general words of the 26th clause. (*Per Cur. Rule absolute.*)

(b) See the preceding note.

39 & 40 G. 3, c. 99.

Churchwardens,
&c. to prosecute,
&c.Convicted per-
sons, &c. not to
prosecute or in-
form against per-
sons, &c.Act not to extend
to persons lending
money at 5*l.* per
cent. without fur-
ther profit.Act to extend to
executors, &c. of
pawnbrokers.

General issue.

Double costs.

Inhabitants com-
petent witnesses.Form of convic-
tion (a).

offence or offences shall have been committed, unless the same shall have been committed within the city or liberties of London."

Sect. 28. "The churchwardens and overseers of the poor of any parish or place, where any offence shall be supposed to have been committed by any pawnbroker against this act, or some or one of such officers, at the discretion or direction of any justices of the peace, on having notice from such justice of the peace, of such offence being supposed to have been committed, shall, and they or some or one of them, to be nominated by such justice as afore-said, are and is hereby required to prosecute every offender for every offence, so to be suggested by such justice to have been committed against this act, at the expense of the respective parish whereof they or he are, is, or shall be for the time being such officers or officer."

Sect. 29. "No person who has been convicted of any fraud, or of obtaining money under false pretences, or of any felony whatsoever, shall be allowed to prosecute or inform against any person or persons, for any offence or offences committed against this act."

Sect. 30. "Nothing in this act contained shall extend, or be construed to extend, to any person or persons whomsoever, who shall lend money to any person or persons whomsoever upon pawn or pledge, at the rate of five pounds per centum per annum interest, without taking any further or greater profit for the loan or forbearance of such money lent, on any pretence whatsoever."

Sect. 31. "All and every the provisions, regulations, and clauses contained in this present act shall, from and after the end of this present session of parliament, extend to and include the executors, administrators, and assigns of all and every deceased pawnbroker, in the same manner as the same extend to and include the pawnbroker when living, save and except that no such executor or administrator of any such deceased pawnbroker shall be answerable for any penalty or forfeiture personally, or to be paid out of his, her, or their own monies or estates, unless the same shall be incurred and forfeited by his, her, or their own act or neglect."

Sect. 32. "If any person or persons shall at any time or times be sued, molested, or prosecuted, for any thing by him, her, or them done or executed in pursuance of this act, or of any clause, matter, or thing herein contained, such person or persons may plead the general issue, and give the special matter in evidence for his, her, or their defence; and if upon the trial a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall become nonsuited, then such defendant or defendants shall have double costs awarded to him, her, or them against such plaintiff or plaintiffs."

Sect. 33. "In all actions, suits, informations, trials, and other proceedings in pursuance of this act, or in relation to any matter or thing herein contained, any inhabitant of the parish, town, or place in which any offence or offences shall be committed, contrary to the true intent and meaning of this act, shall be admitted to give evidence, and shall be deemed a competent witness, notwithstanding his or her being an inhabitant of the parish, town, or place wherein any such offence or offences shall be supposed to have been committed."

Sect. 34. "The justice or justices before whom any person shall be convicted, in manner prescribed by this act, shall cause such respective conviction to be drawn up in the form or to the effect following; (that is to say,)

Be it remembered, that on this day of , in the
to wit. } year of his majesty's reign, A. B. is convicted before , of his
majesty's justices of the peace for the said county of , [or, for the
riding or division of the said county of , or, for the city, liberty, or town
of , as the case shall happen to be] for , and the said
do adjudge him [or, her] to pay and forfeit for the same the sum of
: Given under the day and year aforesaid.

(a) See in general, *ante*, Vol. I. title "Conviction."

"And the said justice or justices before whom such conviction shall be had, shall cause the same, so drawn up in the form or to the effect aforesaid, to be fairly written upon parchment and transmitted to the next general or general quarter session of the peace to be held for the county, riding, division, city, town, liberty, or place wherein such conviction was had, to be filed and kept amongst the records of the said general or quarter session; and in case any person or persons so convicted shall appeal from the judgment of the said justice or justices to the said general or quarter session, the justices in such general or quarter session are hereby required, upon receiving the said conviction, drawn up in the form or to the effect aforesaid, to proceed to the hearing and determination of the matter of the said appeal at such next session, and not afterwards, according to the directions of this act; any law, custom, or usage to the contrary notwithstanding; and no *certiorari* shall be granted to remove any conviction or other proceedings had thereon in pursuance of this act."

39 & 40 G. 3, c. 99.

To be filed.

Certiorari (a).

Appeal (b).

Recognizance of.

Costs.

Public act.

30 Geo. 2, c. 24.
Compelling attendance of offender and witnesses.

Sect. 35. "If any person convicted of any offence or offences punishable by this act shall think himself or herself aggrieved by the judgment of the justice or justices before whom he or she shall have been convicted, such person shall have liberty to appeal to the justices, at the next general or quarter sessions of the peace which shall be held for the county, riding, division, city, liberty, town, or place where such judgment shall have been given, and that the execution of the said judgment shall in such case be suspended, the person so convicted entering into a recognizance at the time of such conviction, with two sufficient sureties, in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices, in their said next general or quarter session, and to pay such costs as the said justices in such session shall award on such occasion, which recognizance the said justice or justices before whom such conviction shall be had, is and are hereby empowered and required to take; and the justices in the said general or quarter session are hereby authorized and required to hear and finally determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable to be paid by either party; and if, upon the hearing of the said appeal, the judgment of the justice or justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said general or quarter session shall award to be paid for defraying the expenses sustained by the defendant or defendants in such appeal, or, in default of making such payment, shall suffer the respective pains and penalties by this act inflicted upon persons respectively who shall neglect to pay, or shall not pay the respective sums or forfeitures by this act to be paid by or imposed upon persons respectively, who shall be convicted by virtue of this act."

Sect. 36 makes it a public act.

By the 30 Geo. II. c. 24, s. 16, any justice unto whom complaint upon oath shall be made of any offence committed against this act, shall issue his warrant for bringing before him, or some other justice of such place, the person charged with such offence; and the justice before whom he is brought shall hear and determine the matter, and proceed to judgment and conviction; and if it shall appear upon oath, to the satisfaction of such justice, that any person within his jurisdiction can give material evidence on behalf of the prosecutor, or of the person accused, and who will not voluntarily appear, he shall issue his summons to convene him to give his evidence; and, if he shall neglect or refuse to appear on such summons, and no just excuse shall be offered, then (on proof upon oath of the summons

(a) See, in general, title "*Certiorari*," Vol. I.

(b) See, in general, *ante*, Vol. I. title "*Appeal*."

No fees to be taken.

7 Geo. 4, c. 16.

Penalty on persons pawning, or receiving in pawn, clothes or other articles, marked "Chelsea Hospital," 20*l*.

5 & 6 Wil. IV. c. 62.

Declaration substituted for oaths and affidavits required by acts as to pawnbrokers. Penalties as to such oaths, &c. to apply to declarations.

having been duly served upon him) he shall issue his warrant to bring such witness before him; and, on his appearance, if he shall refuse to be examined on oath, without offering just cause for such refusal, the justice shall commit him to the public prison for any time not exceeding three months; and if, on such examination, the justice shall deem the evidence of any such witness to be material, he may bind over such witness, unless a feme-covert, or under the age of twenty-one years, by recognizance in a reasonable penalty, to appear and give evidence at the next sessions or assizes.

By s. 13, no fee or gratuity shall be taken for any summons or warrant granted by any justice or justices, in pursuance of this act, so far as the same relates to goods pawned, pledged, taken in exchange, or unlawfully disposed of.

The 7 Geo. IV. c. 16, s. 34, enacts that, "if any pensioner of Chelsea Hospital shall unlawfully pawn, or if any pawnbroker shall unlawfully take in pawn, any clothes, linen, stores, or other goods marked with the words "Chelsea Hospital," such mark, if not previously crossed out as directed by the act, shall be taken as sufficient evidence (without further proof) that the clothes, &c. are the property of the commissioners. And if any pensioner shall unlawfully pawn, or any pawnbroker shall unlawfully take in pawn, any clothes or other goods belonging to the said hospital, he shall forfeit 20*l*., on conviction before a justice of the peace, one moiety to go to the informer, and the other to the use of the hospital."

By the 5 & 6 Wil. IV. c. 62, s. 12, "where by any act or acts at the time in force for regulating the business of pawnbrokers any oath, affirmation, or affidavit might, but for the passing of this act, be required to be taken or made, the person who by or under such act or acts might be required to take or make such oath, affirmation, or affidavit shall in lieu thereof make and subscribe a declaration to the same effect; and such declaration shall be made and subscribed at the same time, and on the same occasion, and in the presence of the same person or persons, as the oath, affirmation, or affidavit in lieu whereof it shall be made and subscribed would by the act or acts directing or requiring the same be directed or required to be taken or made; and all and every the enactments, provisions, and penalties contained in or imposed by any such act or acts, as to any oath, affirmation, or affidavit thereby directed or required to be taken or made, shall extend and apply to any declaration in lieu thereof, as well and in the same manner as if the same were herein expressly enacted with reference thereto." See further title "Oaths," Vol. III.

Forms.

(1.) Information against a pawnbroker, on 39 & 40 Geo. 3, c. 99, s. 22, for not exhibiting a table of interest (a).

_____, to wit. *Be it remembered, that on, &c., A. B. of _____, cometh before me, _____ Esq., one of his majesty's justices of the peace in and for the city of _____, [or, in and for the county of _____], and acting near the place where the offence hereinafter mentioned was committed, and giveth me, the said justice, to understand and be informed, that C. D. of _____, after the commencement of a certain statute passed in the 40th year of the reign of our lord the late king, George the Third, intituled, "An Act for better regulating the Business of Pawnbrokers," within twelve calendar months last past, to wit, on the _____ day of _____, in the year of our Lord _____, aforesaid, and from thence until and at the time of exhibiting this information, did follow and carry on the trade and business of a pawnbroker, at and in a*

(a) See this form, and others, in "Paley on Convictions."

certain shop and place in and parcel of a certain dwelling-house, situate and being in _____, in [the city of London] aforesaid: nevertheless, the said C. D., not regarding the said statute*, did not, nor would, whilst he so followed and carried on the said trade and business as aforesaid, cause to be painted or printed, in large legible characters, the rate of profit allowed by the said statute to be taken by the said C. D., and also the various prices of the note or memorandum to be given by him, according to the rates in and by the said statute allowed, and an account of what notes or memorandums were to be delivered gratis, and of the expense of obtaining a second note or memorandum, where the former one has been lost, mislaid, destroyed, or fraudulently obtained, and place the same in a conspicuous part of the said shop and place, wherein he so carried on the said trade and business as aforesaid, so as to be legible by the persons pledging goods and chattels, standing in the places provided for such persons coming to pawn or redeem goods and chattels at the said shop; but the said C. D., during the time aforesaid, wholly neglected and omitted so to do, contrary to the form of the said statute, whereby, and by force of the said statute, the said C. D. hath forfeited for his said offence a penalty of not less than forty shillings, nor more than 10l., in the discretion of me the said justice: and thereupon the said A. B. prays the judgment of me the said justice, of and upon the premises, and that the said C. D. may be summoned to answer the same, and to make his defence thereto before me.

Commencement as in form *supra*, No. 1, to the asterisk] did not, nor would, whilst he so followed and carried on the said trade and business as aforesaid, cause to be painted or written in large legible characters over the door of the said shop and place, by him, during the time aforesaid, made use of for carrying on the said trade and business of a pawnbroker, the Christian and surname of the said C. D., so carrying on the said trade and business as aforesaid, and the word "pawnbroker" following the same, according to the form and effect of the said act of parliament; but on the contrary thereof, the said C. D., during the time aforesaid, to wit, on &c., and from thence for the space of one [week], and upwards, then next following, made use of the said shop and place for carrying on the said trade and business of a pawnbroker, without having such Christian and surname of the said C. D. and the word "pawnbroker" so printed or written as aforesaid, contrary to the form of the said statute, whereby, and by force of the statute, the said C. D. hath forfeited for his said offence the sum of 10l.; and thereupon, &c. [Conclude as in form *supra*, No. 1.]

(2.) Information on like act, s. 23, against a pawnbroker for not having his name and description over the door.

Commencement as in form *supra*, No. 1. State the offence thus:] That after the commencement of a certain statute passed in the 39th and 40th years of the reign of our lord the late king, George the Third, intituled "An Act for better regulating the Business of Pawnbrokers," and within twelve calendar months next before the exhibiting of this information, to wit, on the _____ day of _____, in the year of our Lord _____, at the parish of _____, in the said county of _____, one C. D., of the parish aforesaid, (then and there being a pawnbroker,) did unlawfully receive and take in pledge a certain [cotton frock,] of and from one E. F., she the said E. F. then and there being and appearing to be under the age of twelve years, against the form of the said statute; whereby the said C. D., for his said offence, hath forfeited a penalty not less than forty shillings, nor more than 10l. of lawful money of Great Britain, to be applied as the said statute directs; all which the said A. B. is ready to prove before me the said justice, by a credible witness, when the said C. D. shall be summoned to make his defence touching the same; wherefore the said A. B. prays judgment of me the said justice in the premises, and that I will proceed thereupon according to law, and that the said C. D. may be summoned to appear before me, to answer the premises, and to make defence thereto.

(3.) Information on like act, s. 21, against a pawnbroker for taking pledges of a child under twelve years of age.

_____, to wit. Be it remembered, that on this _____ day of _____, in the _____ year of his majesty's reign, _____, Martha Collins, of the parish _____

(4.) Conviction on 39 & 40 Geo. III. c. 99, s. 6, of a

(a) See this form, and the most of the others, in "Paley on Convictions."

Forms.

pawnbroker for taking a pledge without giving a duplicate: where the goods were pawned in an assumed name (a).

Not less than 40s. nor more than 10l. s. 26.

Award of one half to informer, s. 26.

of _____, in the county of _____, pawnbroker, is convicted before me, J. M., one of the justices of the peace for the said county of _____, for [that, or on the _____ day of _____ last, in the parish aforesaid, in the county aforesaid, the said M. C., who then and there used the trade and business of a pawnbroker, did then and there take of and from one J. Gillner, in the name of J. Needham, by way of pledge, certain goods and chattels, to wit, (&c. &c.) upon which the said M. C. lent and advanced the sum of _____ shillings, and which said J. Gillner, at the time he pawned the said goods and chattels, informed the said Martha Collins, that his name was John Needham, and that he lived in Leonard Street, and she the said Martha Collins did not, at the time of taking the said pledge, give to the said John Gillner a note or memorandum, fairly and legibly written or printed, or in part written and in part printed, containing therein a description of the said goods so pawned, and also the place of abode of the person by whom such goods were pawned, according to the information given by the said John Gillner to the said Martha Collins, at the time of such pawning as aforesaid, contrary to the form of the statute in such case made and provided;] and I, the said justice, do adjudge the said Martha Collins to pay and forfeit for the same the sum of £ _____, of lawful money of Great Britain; and I do award, that out of the said sum of £ _____, so forfeited as aforesaid, the sum of £ _____, being one moiety of the said sum of £ _____, be paid to J. S., the party complaining in this behalf, and that the sum of £ _____, being the remaining moiety of the said sum of £ _____, so forfeited as aforesaid, be paid and applied as the law directs. Given under my hand and seal, at _____, in the county aforesaid, the day and year first aforesaid.

(5.) The like on s. 2, for taking more than legal interest.

_____, to wit, Be it remembered, that on this _____ day of _____, in the _____ year of his majesty's reign, T. T., of the parish of _____, in the county of _____, pawnbroker, is convicted before me, I. N., Esq., one of his majesty's justices of the peace for the said county of _____, for that, on the _____ day of _____, in the year of our Lord _____, at the parish of _____, in the said county of _____, he, the said T. T., who then and there used and exercised the trade and business of a pawnbroker, did unlawfully demand, receive, and take of and from one H. G., on redeeming the pawn and pledge hereinafter mentioned, the sum of [one penny] of lawful money of Great Britain, as, for, and by way of profit upon the sum of [one shilling and sixpence], of like lawful money, the said sum of [one shilling and sixpence] being a sum not exceeding the sum of [two shillings and sixpence], theretofore, to wit, on the _____ day of _____, in the year of our Lord _____, in the parish and county aforesaid, lent and advanced by the said T. T., upon a certain pawn and pledge, that is to say, [three cotton window curtains and one chair,] to the said H. G., which said pawn and pledge was redeemed by the said H. G. within the space of seven days after the expiration of the first calendar month after the same had been so pawned and pledged as aforesaid, that is to say, on the said _____ day of _____, in the year aforesaid, to wit, in the parish and county aforesaid, the said sum of [one penny], so demanded, received, and taken as aforesaid, being more than at and after the rate of [one halfpenny] for the loan of any sum not exceeding [two shillings and sixpence] by the calendar month, and being greater profit than he, the said T. T., was then and there entitled, and ought to demand, receive, and take, contrary to the form of the statute in such case made and provided; and I, the said justice, do adjudge him to pay and forfeit, &c. [as in the foregoing form No. 4 to the end.] Given under my hand and seal, the day and year first above written.

The above is sufficient to exemplify the form directed to be used by the statute (39 & 40 Geo. III. c. 99,) which only varies according to the particular offence, for which a blank is left, directed to be filled up, by inserting the fact as stated in the information.

(6.) Information for a like offence, but in another form.

Commence as in form ante, 152. State the offence thus:] That C. D., of _____, on the _____ day of _____, in the year aforesaid, in the parish of _____

(a) The 34th section of this act, ante 150, prescribes the formal parts of the conviction.

, in the said county, (he the said C. D., then and there using and exercising the trade and business of a pawnbroker,) did unlawfully demand, receive, and take, of and from E. F., of , who then and there applied and offered to redeem, and did then and there redeem a certain [snuff-box], before then, to wit, on the day of , in the year aforesaid, in the parish and county aforesaid, pledged by the said E. F. [or by one G. H.,] with the said C. D., as and by way of security for a certain sum of money, to wit, the sum of [4l.] of lawful money of Great Britain, then and there, to wit, on the day and year last aforesaid, in the parish and county aforesaid, lent and advanced by the said C. D. to the said E. F., and which said pledge did remain in pawn from thence, to wit, from the day and year last aforesaid, until and upon the said day of , in the year aforesaid, a certain sum of money, to wit, [twelve shillings,] of like lawful money, as and by way of profit, over and above the sum of [4l.] so lent and advanced as aforesaid, upon and for the loan of the said sum of [4l.] for the time during which the said pledge did remain in pawn as aforesaid, the said sum of [twelve shillings] so demanded, received, and taken by the said C. D., being a greater profit than was or is allowed by law to be taken by the said C. D. for the same, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute, the said C. D. forfeited, for his said offence, a penalty of not less than forty shillings, nor more than 10l., in the discretion of me the said justice: and thereupon the said A. J. prays judgment of me the said justice, and that the said C. D. may be summoned to answer the premises, and to make defence thereto, before me the said justice, &c. [Conclude as in form ante, 152.]

Commence as in form ante, 152. State the offence thus:] That C. D., of , after the commencement of a certain statute passed in the 40th year of the reign of our lord the late king, George the Third, intituled, "An Act for better regulating the Business of Pawnbrokers," to wit, on &c., at &c., he, the said C. D., then and there being a pawnbroker, did take, by way of pawn or pledge, of and from E. F., of , a certain [shirt], whereon the sum of five shillings was then and there advanced and lent by the said C. D. to the said E. F., nevertheless, the said C. D., not regarding the said act of Parliament, did not nor would, at the time of taking the said pawn or pledge, give the said E. F. a note or memorandum fairly and legibly written or printed, or in part written and in part printed, containing therein a description of the said [shirt], which he, the said C. D., so received in pawn or pledge, and also the sum of money advanced thereon, with the day of the month and year on which, and the name and place of abode of the said , by whom the said [shirt] was so pawned or pledged as aforesaid, and whether the said E. F. was a lodger or housekeeper, according to the form and effect of the said act of Parliament in that behalf; but on the contrary thereof, the said A. B. giveth me, the said justice, to understand and be informed, that although the said C. D., at the time of taking the said pawn or pledge as aforesaid, did give to the said E. F. a certain note or memorandum, as and for such note and memorandum as aforesaid, yet the said [shirt], or the name and place of abode of the said E. F., and whether he was a lodger or housekeeper as aforesaid, were not fairly and legibly written or printed, or in part written and in part printed, in or upon the said note or memorandum so given by the said to the said as aforesaid, contrary to the form and effect of the said statute; whereby and by force of the said statute, &c. [Conclude as in form ante, 152.]

(7.) Information on 39 & 40 Geo. III. c. 99, s. 6, against a pawnbroker for not giving a note legibly written, describing the thing pawned.

to wit. Be it remembered, that on , A. B., of , cometh before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county of , and acting in and near the place where the offence hereinafter mentioned was committed, and [on his oath] giveth me, the said justice, to understand and be informed, that C. D., of , in the parish of , in the said county, within the space of twelve calendar months now last past, to wit, on, &c., in the parish and county aforesaid, then and there using and exercising the trade and business of a pawnbroker, did knowingly take in as a pledge and pawn a certain material, to wit, [one case,] the property of the said A. B., then and there plainly intended for the composing and manufacturing of certain goods, to wit, a [watch], after the said material had been

(8.) Information against a pawnbroker on s. 11 of like act, for receiving in pawn goods in a state of manufacture, or linen put out to wash.

Forms.

put into a state and course of manufacture, and before the same was completed and finished for the purpose of wear or consumption, and which material then had been and was intrusted by the said A. B. to one J. W., to manufacture and work up, finish and make up, and upon which said material the said C. D. then and there, upon the said taking in the same as a pledge and pawn as aforesaid, lent the sum of [two shillings], contrary to the form of the statute in such case made and provided, whereby and by force of the said statute, the said C. D. hath forfeited for his said offence the sum of [four shillings], being double the sum so lent on the same as aforesaid, to be paid to the poor of the said parish, and to restore the said material to the said A. B.; and thereupon the said A. B. prays judgment of me the said justice, of and upon the premises, and that the said C. D. may be summoned to answer the same, and to make his defence thereto before me. J. P.

(9.) Information against a pawnbroker on the like act, s. 24, for selling pledges before the time limited.

Commence as in form ante, 152. State the offence thus:] That C. D., of , on , in the parish aforesaid and county aforesaid, then and there using and exercising the trade and business of a pawnbroker, did receive and take from one E. F., in pawn and pledge for the sum of , a certain [gown] of the said E. F., of the value of ; and that the said C. D. afterwards, before the time limited in that behalf by the statute in that case made and provided, and within the space of twelve calendar months ["now last past," or "next before information given in this behalf,"] to wit, on the day of last past, in the parish and county aforesaid, did cause the said [gown] to be sold; contrary to the form of the statute in that case made and provided. [Conclude as in form ante, 152.]

(10.) Information against a pawnbroker on like act, s. 14, 15, for not delivering up pledges on payment of principal and interest.

Commence as in form ante, 152. State the offence thus:] That C. D., of , on , at the parish aforesaid, in the county aforesaid, then and there using and exercising the trade and business of a pawnbroker, did lend and advance unto one E. F., the sum of [five shillings] upon a certain [gown] of the said E. F., then and there pledged and pawned by the said E. F. with the said C. D., as such pawnbroker as aforesaid; and that the said C. D. afterwards, and within the space of twelve calendar months, ["now last past," or "next before information given in this behalf,"] to wit, on the day of last past, in the parish and county aforesaid, did, without any reasonable cause, neglect and refuse to deliver back to the said E. F. the [gown] so pawned with the said C. D. as aforesaid, although the said E. F. did then and there tender to the said C. D. the said sum of [five shillings], being the principal sum borrowed thereon as aforesaid, together with the sum of , as the profit thereof, according to the rates established by the statute in that case made and provided; and that I, the said J. P., having caused the said C. D. to appear before me, and the said tender being then duly proved before me upon oath, and the said principal sum and profit thereon being again then and there tendered by the said E. F. to the said C. D., and the said C. D. having then and there refused to accept of the same, I, the said J. P., did then and there, by a certain order in that behalf, under my hand, direct that the said [gown] should be forthwith delivered by the said C. D. to the said E. F., and of which said order the said C. D. then and there had notice; and that the said C. D. nevertheless did then and there neglect and refuse, and from thence hitherto hath neglected and refused to deliver up the said [gown] to the said E. F., according to the said order, or to make satisfaction to the said E. F. for the value of the same: contrary to the form of the statute in that case made and provided. [Conclude as in form ante, 152.]

(11.) Information on like act, s. 8, for pawning goods the property of others.

Commence as in form ante, 152. State the offence thus:] That C. D., of , on , at the parish aforesaid, in the county aforesaid, did knowingly and designedly pawn and pledge with one E. F., then and there being a pawnbroker, a certain [gown], the property of G. H., and of the value of , she the said C. D. not being then and there employed or authorized by the said G. H. to pawn or pledge the same; contrary to the form of the statute in that case made and provided. [Conclude as in form ante, 152.]

Peace. See post, "Surety for the Peace."

Pedlers. See "Pedlars," Vol. III.

Peers.

DUKES, Earls, and Barons, are not conservators of the peace at common law; and have no more power as such than mere private persons. (2 Haw. c. 8, s. 1.) Not conservators of the peace.

The safest way of proceeding against a peer for sureties of the peace or good behaviour, is by complaint to the Court of Chancery or King's Bench. (1 Haw. c. 60, s. 5. *R. v. Earl Ferrers*, 1 Burr. 631.) Sureties of peace against.

By the common law, peers of the realm of England and peeresses, whether by birth or marriage, are constantly privileged from arrest in civil suits. And this privilege is extended, by the act of union with Scotland, to Scotch peers and peeresses: and by the act of union with Ireland, to Irish peers and peeresses (a). Privileged from arrest.

They are not liable to be attached for the non-payment of money, pursuant to an order of *nisi prius*, which has been made a rule of court. (Walker v. Earl Grosvenor, 7 T. R. 171.) From attachments.

But they are not exempted from attachments for not obeying the process of the court, (*R. v. Earl Ferrers*, 1 Burr. 631); nor does the privilege extend to peeresses by marriage, if they afterwards intermarry with commoners.

The court will take judicial notice of an English peerage without its being specially pleaded. (*Lofft*, 49.) But the privilege of peerage must be pleaded in abatement specially, in which not only the right of peerage must be shown, but also how he derived that right, as by setting forth the letters patent, &c. (*Rex v. Cooke*, 2 B. & Cres. 871; 4 D. & R. 594, S. C.) So this must be shown in any pleading claiming the right of peerage. (See *Earl of Stirling v. Clayton*, 1 C. & M. 241.) And in the Countess of Rutland's case, (6 Co. 53.) the note says, "duke or not duke, earl or not earl, baron or not baron, shall not be tried by the country but by record; for if they be lords of parliament, it appears by the record, and therefore, by record, viz. the king's writ, it ought to be certified." (And see *Lord Abergavenny's case*, 12 Co. 71; *Countess of Shrewsbury's case*, 12 Co. 94.) Court take notice of.

A nobleman must be tried by his peers; but this is to be understood only at the suit of the king, upon an indictment for high treason, petit treason, felony, or misprision thereof; but in case of a *præmunire*, riot, or the like, and generally for all other crimes out of parliament, (unless otherwise specially provided for by statute, as it is in many instances,) though it be at the suit of the king, he shall not be tried by his peers, but by the freeholders of the county. (3 Inst. 30; 2 Haw. c. 44, s. 12, *et seq.*) Trial of peers.

By the 9 Geo. IV. c. 31, s. 7, empowering the trial in England for murder or manslaughter committed abroad, it is provided that peers shall be

(a) An Irish peer, who has voted in the election of representative peers, cannot be arrested or sued by *capias*. (Coates v. *Ld. Hawarden*, 7 B. & C. 388; 1 Man. & Ry. 110, S. C.) The court will not, on motion, cancel a bail bond given by a person claiming to be an Irish peer, unless his peerage be clearly made out. (*Storey v. Birmingham*, 3 D. & R. 488. See *Digby v. Ld. Stirling*, a Scotch peer, 8 Bingh. 55; 1 M. & Scott, 116; 1 Dowl. P. C. 248, S. C.)

<i>Peers.</i>	tried for such offence as heretofore. See the enactment, tit. " Malicious Injuries to Persons ," Vol. III.
Description in indictment.	In the case of a peer or peeress being indicted, the name and rank are placed in the indictment before the addition of place, as, "John Duke of A., late of B., in the county of C."
Outlawry of.	Process of outlawry lies against a peer, if he be indicted, and appears not, and cannot be taken: otherwise he might take advantage of his own contumacy. (3 <i>Inst.</i> 31.)
Witness.	A peer produced as a witness ought to be sworn. (<i>Earl of Shaftesbury v. Ld. Digby</i> , 3 <i>Keb.</i> 631.) But this is to be understood of criminal prosecutions, and not civil actions. And see tit. " Parliament ," <i>ante</i> .

Penal Action. See "**Information**," Vol. III.

Penalty. As to the levying of, by distress and commitment, see title "**Distress under Justice's Warrant**," Vol. I.

Penitentiary, (*Millbank*.) See 7 & 8 Geo. 4, c. 33, "**Gaols**," Vol. II.; "**Central Criminal Court**," Vol. I.

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Perjury and Subornation.

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I. Perjury by the Common Law.

[And herein, 1st, Of the Offence itself; 2ndly, The Indictment for it; 3rdly, The Evidence; 4thly, The Certiorari, &c.; and 5thly, the Punishment.]

1. WHAT CONSTITUTES THE OFFENCE.

PERJURY by the common law seemeth to be a wilful false oath, by one who, being lawfully required to depose the truth in any judicial proceeding, swears absolutely in a manner material to the point in question, whether he be believed or not. (1 *Haw. c. 69, s. 1*; 3 *Inst. 164.*) Perjury at the common law.

Wilful.]—The false oath must be wilful, and proved to be taken with some degree of deliberation; for if upon the whole circumstances of the case it shall appear probable that it was owing rather to the weakness than perverseness of the party, as where it was occasioned by surprise or inadvertency, or a mistake of the true state of the question, it cannot but be hard to make it amount to voluntary and corrupt perjury, which is of all crimes whatsoever the most infamous and detestable. (1 *Haw. c. 69, s. 2*) Must be wilful.

False.]—It is said not to be material, whether the fact which is sworn to be in itself true or false; for however the thing sworn may happen to prove agreeable to the truth, yet if it were not known to be so by him who swears to it, his offence is altogether as great as if it had been false; inasmuch as he wilfully swears that he knows a thing to be true, which at the same time he knows nothing of, and impudently endeavours to induce those before whom he swears to proceed upon the credit of a deposition, which any stranger might make as well as he. (1 *Haw. c. 69, s. 6.*) But it is otherwise on stat. 5 *Eliz. c. 9, post.* Must be false.

So, in *Pedley's case*, 1 *Leach*, 327, it was holden by *Lord Mansfield, C. J.*, that a man may be indicted for perjury in swearing that he believes a fact to be true, which he must know to be false.

It is further said, that upon this question being agitated in the Court of C. P. all the judges were unanimous, that belief was to be considered as an absolute term, and that an indictment might be supported upon such a statement. (1 *Haw. c. 69, p. 88, note (a) edit. of 1795.*)

But it is said that if a witness swears positively to a fact which he does not absolutely know, but which he has some grounds for believing has happened at the time he swears it, and which afterwards proves to be true, —as if he has instructed an agent or correspondent to do a certain thing at such a period at a distant place, and he swears positively that the thing was done, though he could not at the time by any possibility have received information, whether the thing was done or not; this although certainly a very rash and in strictness of law a *false* oath, yet in the absence of all *wicked intention to deceive*, and the fact really turning out as the witness had previously sworn, he could not it is apprehended in this instance be liable to the penalties of perjury, which must not only be *wilful* but must also be *corrupt*. (2 *Deacon, Crim. Dig. 1000.*)

Oath.]—The false affirmation or declaration of any of the people called Quakers, made instead of an oath, will subject the party to the penalties of perjury, by stat. 7 & 8 *Wil. III. c. 34*, 8 *Geo. I. c. 6*, and 22 *Geo. II. c. 46*. The latter stat. (by s. 36,) enacts, “If any person making such affirmation or declaration shall be lawfully convicted of having wilfully, falsely, and corruptly affirmed and declared any matter or thing, which, if the same had been deposed in the usual form, would have amounted to wilful and corrupt perjury, every person so offending shall incur and suffer the like pains, penalties, and forfeitures, as by the laws and statutes of this realm are to be inflicted on persons convicted of wilful and corrupt perjury,” See 9 *Geo. IV. c. 32*; also, “*Evidence*,” Vol. II. False affirmations of Quakers.

(1.) *What constitutes the Offence.*

Must be legally sworn.

Being lawfully required.—It seemeth clear, that no oaths whatsoever, taken before persons acting merely in a private capacity, or before those who take upon them to administer oaths of a public nature without legal authority, or before those who are legally authorized to administer some kinds of oaths, but not those which happen to be taken before them, or even before those who take upon them to administer justice by virtue of an authority seemingly colourable, but in truth unwarranted and merely void, can amount to perjuries, but are altogether idle and of no force. (1 *Haw. c.* 69, s. 4; *R. v. Dunn*, 1 *D. & R.* 10. See also, 4 *Bl. Com.* 137; and “*Oaths*,” Vol. III.) In a late case where an order of reference at *nisi prius* directed that the witnesses should be sworn before a judge “or before a commissioner duly authorized,” and a witness was sworn before a commissioner for taking affidavits in the same court, and afterwards examined *viva voce* by the arbitrator: it was held that a witness so sworn was not indictable for perjury; as the commissioner though authorized to take affidavits was not authorized to administer an oath for a *viva voce* examination. (*R. v. Hanks*, 3 *C. & P.* 419.) Gaselee, J., however there said, “By the 29 *Car.* 2, c. 5, the courts are empowered to appoint commissioners for taking affidavits, and if this order had empowered a commissioner for taking affidavits to administer this oath, I would have reserved the point, because whether the court of K. B. has any power to authorize their commissioners to take anything but affidavits, is a question that I should have left them to decide.”

It seems a false oath taken before commissioners after the death of the king, though their commission is in strictness determined by such demise, will nevertheless amount to perjury if the commissioners had no notice of the demise when the oath was administered. (1 *Hawk. c.* 69, s. 4.)

Question must be a lawful one.

The question that is put to the witness must it seems be a lawful one in order to sustain an information for perjury—where the alleged perjury was in answer to a question asked the witness whether he had not been guilty of bribery, the court refused a criminal information against him as it was an unfair question, and one that he was not bound to answer. (*R. v. Dummer*, 1 *Salk.* 374; and see *R. v. Lewis*, 1 *Str.* 69.)

Must be in a judicial proceeding.

In any Judicial Proceeding.—For though an oath be given by him that hath lawful authority, and the same broken, yet if it be not in a judicial proceeding, it is not perjury, because such oaths are general and extrajudicial, but it serves for aggravation of the offence. Such are, general oaths given to officers or ministers of justice, the oath of fealty and allegiance, and such like. Thus, if an officer commit extortion, it is against his general oath, but yet not perjury, because not in a judicial proceeding: but when he is charged with extortion, the breach of his oath may serve for aggravation. (3 *Inst.* 166; *R. v. Aylett*, 1 *T. R.* 69.)

Where an oath is administered by a person that hath lawful authority to tender the same, and it is afterwards broken, yet if it be not in a judicial proceeding, it is no perjury, nor punishable by the common law. (3 *Inst.* 166. See *R. v. Cohen*, *Stark. Rep.* 511; *R. v. White*, *M. & M.* 271; 2 *Chit. C. L.* 303.) And whenever the proceedings are *coram non judice*, however false the oath may be, the party taking it cannot be indicted for perjury, as if a party take a false oath in a court of requests in a matter concerning lands, he would not be liable to an indictment, that court having no jurisdiction over questions concerning lands. (3 *Salk.* 269.)

It seems to be clearly agreed that all false oaths taken before those who are any way intrusted with the administration of public justice, in relation to any matter legally pending before them, are properly *perjuries*. And it seems therefore that all persons are indictable who wilfully forswear themselves in any *judicial proceeding*, depending before a court of law or equity, the spiritual court, or any other court, whether the proceedings therein be of record or not; or whether they concern the interest of the king, or the subject. And it is not material, whether the false oath be taken in the face of the court, or before persons authorized by it to examine a matter, the knowledge whereof is necessary for the right determination of a cause; or whether such matter relates to the merits of the cause, or is merely colla-

teral thereto. Thus, a false oath taken before a sheriff upon a writ of inquiry of damages, or before a commissioner appointed to take cognizance of bail, where a person offering himself to be bail for another swears that his substance is greater than it is, is punishable the same as if the oath was taken before the court itself on the trial of the cause. (1 *Hawk.* c. 69, s. 3.)

Swearing falsely before a magistrate, to induce him to compel another to find sureties for the peace, is indictable as perjury. (1 *Hawk.* c. 69, s. 3; 1 *Camp.* 404.) But no indictment lies for perjury in a voluntary affidavit taken extra-judicially before a magistrate. (4 *Bla. Com.* 137.)

Swearing falsely in an affidavit to procure the re-admission of an attorney, seems indictable as perjury. (See *Ex p. Wentworth*, 2 *Dowl. P. C.* 607.)

The taking a false oath before a surrogate, to procure a marriage licence, will not support an indictment for perjury. (*R. v. Foster*, R. & R. C. C. 459; and see *R. v. Alexander*, 1 *Leach*, 63; *R. v. Woodman*, *Id.* 64.) But the correctness of this is questioned by *Mr. Deacon* in his Digest, p. 1001. It should seem, however, that if the indictment had stated that the defendant took the oath to procure the licence, or that a marriage had been had under such a licence, so procured, the party might have been punished for a misdemeanor. (*Id.*)

A party may be indicted for perjury though he have not complied with the rules and orders of a court, which are merely directory; and, therefore, where a party swore falsely in an affidavit which could not, from certain omissions in the jurat, be received in the court in which it was sworn, it was held he was indictable, the perjury being complete at the time of swearing. (*R. v. Hailey*, R. & M., C. N. P. 94; 1 C. & P. 258, S. C.)

Swears absolutely.]—For the deposition must be direct and absolute; and not as he thinketh, or remembereth, or believeth, or the like. (3 *Inst.* 166.) Unless, indeed, he must know what he so swears to is false. (See *Pedley's Case*, 1 *Leach*, 325, ante, 159.)

The false swearing as to the legal operation of a deed is not indictable. (1 *Esp. Rep.* 280.)

In a Matter material to the Point in Question.]—For, if it be not material, then, though it be false, yet it is no perjury, because it concerneth not the point in issue, and, therefore, in effect it is extra-judicial. (3 *Inst.* 167; *R. v. M'Keron*, 2 *Russ.* 541.)

But it is not necessary that it appear to what degree the point in which a man is perjured was material to the issue; for if it be but circumstantially material, it will be perjury. (*Rex v. Gripe*, 1 *Lord Raym.* 258.)

Though the statement made by a witness be not directly material to the issue, yet if it be made in answer to a question put to him, on cross examination, with a view to try his credit, and the witness deposes to any fact which is positively false, it seems that he will not be less liable to an indictment for perjury than if he had sworn to a matter directly material, for a witness may state many things which are circumstantially, though not directly material to the issue. (2 *Deacon*, C. D. 1003, and *Cases* there collected.)

Much less is it necessary that the evidence be sufficient for the plaintiff to recover upon; for in the nature of the thing an evidence may be very material, and yet it may not be full enough to prove directly the point in question. (*Reg. v. Rhodes*, 2 *Ld. Raym.* 889.)

In a late case in an indictment for perjury in an answer in Chancery, to a bill filed against a defendant for the specific performance of an agreement relating to the purchase of land, the defendant had relied on the Statute of Frauds (the agreement not being in writing), and had also denied having ever entered into such an agreement, and upon this denial he was indicted; but it was held, that the denial of an agreement, which by the Statute of Frauds was not binding on the parties, was immaterial and irrelevant, and not indictable. (*R. v. Dunston*, R. & M., C. N. P. 109.)

Whether believed or not.]—It hath been holden not to be material, upon

2. *Indictment.*

whether believed or not.

False oath indictable in some cases, though not assignable as perjury.

an indictment of perjury at common law, whether the false oath were at all credited, or whether the party in whose prejudice it was intended were in the event any way aggrieved by it or not; insomuch as this is not a prosecution grounded on the damage of the party, but on the abuse of public justice. (1 *Hawk.* c. 69, s. 9; *R. v. Crossley*, 7 *T. R.* 315.)

In some cases where a false oath has been taken, the party may be prosecuted by indictment at common law, though the offence may not amount to perjury. Thus, it appears to have been holden, that any person making or knowingly using any false affidavit taken abroad, (though a perjury could not be assigned on it here,) in order to mislead our courts of justice, is punishable by indictment as for a misdemeanor; and *Ld. Ellenborough*, C. J., said, "that he had not the least doubt, that any person making use of a false instrument in order to prevent the course of justice was guilty of an offence punishable by indictment." (*O'Mealy v. Newell*, 8 *East*, 364; and see *R. v. Foster*, *R. & R. C. C.* 459.)

2. INDICTMENT FOR OFFENCE AT COMMON LAW.

Cannot be supported against two.

It may in the first place be as well to observe that the crime of perjury being in its nature a distinct and separate offence, several persons cannot be joined in one indictment. (*Rex v. Phillips*, 2 *Stra.* 921.) But two or more may be indicted for *subornation* of perjury. (*R. v. Rhodes*, 2 *Lord Raym.* 886.)

On prosecution for perjury, it shall be sufficient to set forth the substance of the offence.

In order to shorten and facilitate indictments and prosecutions for perjury, the 23 *Geo. II.* c. 11, s. 1, enacts, "And in every information or indictment for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence, and by what court, or before whom the oath was taken (averring such court or person to have a competent authority to administer the same), together with the proper averment or averments to falsify the matter wherein the perjury is assigned, without setting forth any part of the record or proceedings either in law or equity (other than as aforesaid), or the authority of the court or person before whom the perjury was committed." See section 2, as to indictments for subornation of perjury, *post*, 170.

The provisions of this statute should be attended to.

In *R. v. Dowlin*, 5 *T. R.* 317, *Ld. Kenyon*, C. J., said, "We have occasion to lament, in almost all the trials for perjury, that the prosecutor does not avail himself of this excellent law, which was passed to obviate difficulties in drawing indictments for this offence." In the case referred to, the commission at the Admiralty session had been unnecessarily set forth in the indictment; and it was admitted that where a prosecutor undertakes to set out in the indictment more of the proceedings than he need under this statute, he must set them forth correctly; but it was holden that the commission at the Admiralty session, being set forth as directed to A., B., and C., and others not named, of which A., B., and C., amongst others, should always be one, the court must take it to mean, that if either of the persons named of the quorum were present, it would be sufficient. (See 1 *Leach*, 201.) Where the indictment was exorbitantly long in stating unnecessarily the various proceedings on a former prosecution, the Court of K. B. referred it to the master to see what part of the record was unnecessary, and made an order that the clerk of the peace should pay the expenses occasioned by the unnecessary matter.

Quashing indictment.

The court generally will not quash an indictment for a crime of so enormous a nature as perjury, for insufficiency in the caption or body of it, but will oblige the defendant either to plead or demur to it. (2 *Hawk.* c. 25, s. 146; *sed vide R. v. Thomas*, 3 *D. & R.* 621.) A judge may refuse to try an indictment for perjury clearly bad in point of law. (*R. & M.*, *C. N. P.* 147, 210.)

Plea of *autrefois acquit*.

With respect to the plea of *autrefois acquit* by a defendant who has been acquitted of an indictment for perjury, but not on the merits, it may be generally observed of such plea, that it is an established principle, that unless the first indictment were such as the defendant (or, if for a felony, the pri-

soner) might have been convicted upon by proof of the facts contained in the second indictment, an acquittal on the first indictment can be no bar to the second. (*R. v. Vandercom and Abbott*, O. B. Jan. 1796, 2 *East's P. C.* 519.) See "*Acquittal*," Vol. I.

Inducement.]—Like in an indictment for a libel, some inducement is generally necessary to render the subsequent statements intelligible. No more inducement should be stated than is absolutely necessary to explain the perjury assigned. (See 2 *Chit. C. L.* 307.) Thus, it is sufficient to state that a certain cause had arisen, and was depending, and came on to be tried in due form of law; or that at such a court I. K. was in due form of law tried on a certain indictment, then and there depending against him, for murder, and that the perjury was committed on the trial either of the civil or criminal proceeding. (*R. v. Dowlin*, 5 *T. R.* 318; *Cro. C. C.* 7th ed. 612, *n. a.*; 2 *Chit. C. L.* 307; 1 *Leach*, 201; *R. v. Schoole, Peake*, *N. P.* 112.)

Time.]—The time of committing the perjury should sometimes be laid with precision (*R. v. Aylett*, 1 *T. R.* 69.) Where an indictment for perjury, in an answer in the Exchequer, alleged that the bill was filed on the 1st day of December, but, on its production, it appeared to be entitled generally of the preceding Michaelmas term, as is the practice when a bill is filed in the interval between two terms: this was held to be no variance, because the day was not alleged as part of the record. (*R. v. Hucks*, 1 *Stark. Rep.* 521.) Where, however, the time is material with reference to the crime of the defendant, as, for instance, with reference to his previous knowledge of a fact, which knowledge he subsequently denies on oath, the time must be proved as laid. Therefore, where the assignments of perjury were alleged in this form, "whereas, in truth and in fact, the said defendant, at the time of effecting the said policy, that is to say, a certain policy of insurance, purporting to have been underwritten by — Kite by his agent Meyer, on the 13th of August, 1807, &c. (and by other writers specified in the indictment,) well knew," &c., and, on the production of the policy, it appeared that it had been underwritten by Meyer for Kite on the 15th of August, the variance was held fatal. (*R. v. Hucks*, 1 *Stark. Rep.* 524.) See "*Indictment*," Vol. III.

Place.]—As to the statement of place and venue, see "*Indictment*," Vol. III. Where the perjury had been committed in the city of Gloucester, which is a county of itself, it was held that the indictment might be found and tried by a jury of the county at large. (*R. v. Gough, Dougl.* 760.)

When the party is indicted for perjury in an *affidavit*, the venue must not be laid in the county where the affidavit is used, but in the county where the offence was complete by taking the false oath; as where an affidavit is sworn before a commissioner in the country, and it is used in the Court of K. B. sitting in Middlesex. (See per *Lord Kenyon*, 7 *T. R.* 319.)

The Court.]—The court by which the oath was administered must be correctly described. An allegation that the oath was administered before justices assigned to hold the assizes, when by the evidence it appeared that the oath was administered when the judge was sitting under the commission of oyer and terminer and gaol delivery, was holden to be a fatal variance. (*R. v. Lincoln, R. & R.* 421.) But an indictment for perjury in a cause tried at the assizes has been holden good, although it alleged the oath to have been taken before one only of the judges in the commission, whereas the names of both judges were, as usual, inserted in the *nisi prius* record. (*R. v. Alford*, 1 *Leach*, 150.) Where the indictment alleged that the cause came on to be tried before Lloyd, Ld. Kenyon, &c., William Jones being associated, &c., and from the judgment-roll it appeared that Roger Kenyon was associated, &c., the variance was held fatal. (*R. v. Eden*, 1 *Esp. R.* 97.) Where the indictment alleged a bill of discovery filed in the Ex-

2. Indictment. chequer (in the answer to which perjury was assigned) to have been filed on a day specified, viz. 1st of December, 1807, and it appeared, on the production of the bill, to have been filed in the preceding Michaelmas term, according to the practice of the court, where a bill is filed in vacation, it was held that the variance was immaterial, the day not having been alleged as part of the document. (*R. v. Hucks*, 1 Stark. C. N. P. 521.) Where the perjury was assigned in answer to a bill alleged to have been filed in a particular term, and a copy produced was of a bill amended in a subsequent term by order of the court, it was held to be no variance, the amended bill being part of the original bill. (3 Stark. Ev. 1138.) Where an indictment for perjury, assigned on evidence given in the Palace Court, described the court as "the Court of the King's Palace at Westminster," and it appeared from the record of the trial below, that it was called "the Court of the King's Palace of Westminster," it was held no variance. (*R. v. Israel*, 3 D. & R. 234.) And where the same indictment averred that the cause in which the alleged perjury was committed "came on to be tried, and was then and there duly tried by a jury of the county," and the record of the trial stated that the jury came of the neighbourhood of Westminster, it was held, that as the cause was in fact so tried, and no county being mentioned in the record, it was no objection. *Id.* Where an indictment for perjury, in setting out the record of a conviction, stated an adjournment to have been made by Const, Esq. and A., B., C., and D., and others, their fellow justices, &c., and an examined copy of the record of conviction, when produced, stated the adjournment to have been made by Const, Esq., and E., F., G., and others, &c., the variance was held fatal, unless the defect was supplied by evidence of an adjournment made by the persons stated in the indictment. (*R. v. Bellamy*, R. & M., C. N. P. 171.)

Authority of court.

It is unnecessary to set forth the commission, from which the *authority of the court* is derived, in which the perjury was committed. (See the 23 Geo. II. c. 11, ante, 162.) Nor is it necessary to set out the *nature* of the authority of the person or court administering the oath. (*R. v. Callanan*, 6 B. & C. 102; 9 D. & R. 97, S.C.) But it is necessary to aver concisely they had competent authority to administer the oath. (*R. v. Lyme Regis*, Dougl. 156.)

The oath.

The Oath.—It must be averred positively and distinctly that the defendant was regularly *sworn*, and deposed, &c. Therefore, in an indictment in which perjury was, by the first count, charged to have been committed at a trial therein mentioned, and *another* count alleged that, at the trial, the defendant was found guilty, "by means of the false and material testimony of the defendant in the first count mentioned," and that a rule *nisi* for a new trial was granted, and that the defendant, knowingly, falsely, wilfully, and corruptly, made affidavit that the evidence given by him at the trial was true, "whereas it was false in the particulars in the first count assigned and set forth;" this latter count was held bad, for not averring distinctly that the defendant was sworn as a witness, and deposed to certain facts at the trial, instead of leaving it to be taken by intendment. (*R. v. Stevens*, 5 B. & C. 246; *R. v. Richards*, 7 D. & R. 665.) It is sufficient, however, in all cases, to allege in the indictment that the defendant was duly sworn. (*R. v. McCarthur*, Peake, 155.) And where the indictment averred that the defendant was sworn on the holy gospel of God, proof that the defendant was sworn and examined as a witness was held sufficient to support the averment. (*R. v. Rowley*, R. & M. N. P. C. 302.)

Where it was averred in an indictment that the defendant was sworn on the gospels, and he appeared to have been sworn according to the *custom of his own country*, this was considered as a variance, which would have been fatal had not the indictment been saved, by proof that he was *previously* sworn in the ordinary mode, *ib.*; *sed qu.* for how can perjury be assigned upon an oath which the defendant *conscientiously* does not consider binding? (*Collyer's Stat.* 474.)

It is not necessary to set out the jurat of the affidavit, (*R. v. Embden*, 9 East, 437); nor is it necessary to state or prove that the affidavit was

affiled in or exhibited to the court, or in any manner used by the defendant or others. (*R. v. Crossley*, 7 T. R. 315.)

2. *Indictment.*

The False Swearing.]—It should be averred that the defendant *falsely* swore, &c. (*R. v. Perrott*, 2 M. & Sel. 385.) An indictment at common law, alleging that the defendant falsely, maliciously, wickedly, and corruptly, swore, &c., without saying “wilfully,” has been held to be sufficient, on the grounds that the former words include the latter. But the word *wilfully* is essential on an indictment on the statute of Elizabeth. (*Cox’s Case*, 1 Leach, 83, 71, 4th ed.) And the words *wilfully* and *corruptly* cannot both be omitted in the indictment at common law. (*R. v. Stevens*, 5 B. & C. 246; *R. v. Richards*, 7 D. & R. 665.) If the same person swears contrary ways at different times, it should be averred on which occasion he swore wilfully, falsely, or corruptly. (*R. v. Harris*, 5 B. & Ald. 926; 1 D. & R. 578, S. C.)

Defendant falsely swore.

The Matter sworn to.]—Unlike to indictments for libels, it will suffice in an indictment for perjury to set out the *substance* of what the defendant swore. (See 6 B. & Cres. 103; *R. v. Grendall*, 2 C. & P. 563; *R. v. Coppard*, 3 C. & P. 59; 1 M. & M. 118, S. C.) The matter falsely sworn to need not be prefaced with the words, “to the tenor and effect following,” “as follows,” or “in words,” or “figures following,” or with other expressions which require an exact recital; but it should rather be “in substance and to the effect following.” (2 Campb. 138; *Cro. C. C. 7th ed.*, 573, n. (a); *Clay’s Case*, 2 Russ. 1785; 2 Chit. C. L. 309.) Or “in manner and form following, that is to say,” which allow of a greater latitude. (1 Leach, 192.)

The matter sworn to.

But, in every case, accuracy is required, and any *substantial* variance will be fatal. In an indictment for perjury in an affidavit, if a word were accidentally omitted in the original document, it must not be supplied as if sworn, but the omissions must be explained by an innuendo. (*R. v. Taylor*, 1 Campb. 404; *R. v. Leefe*, 2 Campb. 134.) So where an indictment in setting out the *substance and effect* of a bill in equity, stated an agreement between the prosecutor and the defendant respecting *houses*; and the word in the bill was *house* in the singular number, this was held a fatal variance. (*R. v. Spencer*, R. & M. 98.) If, in an indictment for perjury before a committee of the House of Commons, on an election petition, it be stated that A. B. and C. D. were returned to serve as burgesses for the said borough of New Malton, and the indenture, when produced, describes them as returned for Malton, without the epithet “*New*,” the variance will be fatal. (*R. v. Leefe*, 2 Campb. 134, 141.) But it would suffice to say, that the election was had “by virtue of a certain precept of the high sheriff of the county, by him duly issued to the bailiff of the said borough of New Malton,” though the precept varied, because it is said not to be matter of description. (*R. v. Leefe*, 2 Campb. 140; 2 Chit. C. L. 310. As to other variances, see *R. v. Dudman*, 7 D. & R. 324; *R. v. Dunn*, 1 D. & R. 10; *R. v. Coppard*, 3 C. & P. 59; *R. v. Israel*, 3 D. & R. 234; *R. v. Carter*, 6 Mod 168; *R. v. Greive*, 1 Ld. Raym. 260.)

When perjury is assigned in several parts of an affidavit, those parts may be set out in the indictment, as if continuous, though they are, in fact, separated by the introduction of other matter. (*R. v. Callanam*, 6 B. & C. 102; 9 D. & R. 97, S. C., and see *R. v. Solomon*, R. & M. C. N. P. 252.)

Innuendo.]—In setting forth the *matter* in the record on which the assignment is made, as well as the perjury, it is frequently necessary to make use of innuendoes in order to explain the meaning. (2 Chit. C. L. 310.) An innuendo is defined to be a mode of explaining some matter already expressed: it serves to point out where there is precedent matter, but can never introduce a new charge; it may elucidate what is already averred, but cannot add or enlarge, or alter, its sense. (*R. v. Greepe*, 2 Salk. 513; 1 Ld. Raym. 256; 12 Mod. 139, S. C. See *Roberts v. Camden*, 3 East, 95; 2 Chit. C. L. 310.) If it is intended to explain anything, the matter must first be put on the record for it to explain. (4 Co. 20, a.)

Innuendoes.

2. *Indictment.* If any use be made of the innuendo which is imperfect it cannot be rejected as surplusage, nor will it be cured by verdict. (*R. v. Griepe*, 1 *Ld. Raym.* 256; 2 *Chit. C. L.* 311.)

Where, however, the oath of the defendant was that he had been arrested before he got to his own house, in the parish of St. Martin's-in-the Fields, an innuendo, his house in the Haymarket, in St. Martin's, &c., is good, as only a more particular description of the same house. So, an oath being that the defendant was arrested upon the steps of his own door, an innuendo that it was the outer door is good. (*R. v. Aylett*, 1 *T. R.* 70.)

Where the innuendo and the matter it introduces are altogether impertinent and immaterial, it may be rejected as surplusage. (*R. v. Aylett*, 1 *T. R.* 65; *Roberts v. Camden*, 9 *East*, 93.)

Assignments of perjury.

Assignments of Perjury.]—The indictment must assign positively the manner in which the matter sworn to is false. (*R. v. Aylett*, 1 *T. R.* 70.) A general averment that the defendant falsely swore, &c., upon the whole matter, is not sufficient: the indictment must proceed, by particular averments, to negative that which is false. (*R. v. Perrott*, 2 *M. & Sel.* 385.) Upon this principle it has been held, that if an insolvent debtor has sworn that his schedule contains a full, true, and perfect account of all debts owing to him, at the time of his petitioning for his discharge, an assignment of perjury on that oath, stating that "whereas, in truth and in fact, the said schedule did not contain a full, true, and perfect account," &c. (in the words of the oath), is too general; for it ought to state what debt he is charged with omitting. (*R. v. Hepper*, 1 *C. & P.* 608; *R. & M. C. N. P.* 210, *S. C.*) When the defendant swears only to belief, it may be proper to aver, "that he well knew" the contrary of what he swore, as in 4 *Wentw.* 231; 2 *Chit. C. L.* 312.

It should be here observed, that it will suffice to convict the defendant to prove any one of the material assignments of perjury. (*R. v. Rhodes*, 2 *Ld. Raym.* 886; *R. v. Leefe*, 2 *Campb.* 133.) Yet, if the least part of one entire material assignment be disproved, it will not suffice. (*R. v. Leefe*, 2 *Campb.* 134.)

Materiality.

Materiality.]—It must be shown either by a statement of the proceedings or by other averments, that the matter sworn to *was material* to the question depending. (*R. v. Aylett*, 1 *T. R.* 19; *R. v. M'Keron*, 5 *T. R.* 316.) But, though an allegation of this fact is essential, yet it is not necessary to set forth so much of the proceedings of the former trial as will show the materiality of the question on which the perjury is assigned: it is sufficient to allege generally that the particular question became a material question. (*R. v. Dowlin*, 5 *T. R.* 311.) On the other hand, if the materiality appear on the record, it is unnecessary to aver it, (*T. P. C.* 139,) though it is most usual to do so. (2 *Stark, C. N. P.* 423, *n.*; and see 2 *Russ.* 541.)

An indictment for perjury stated, that it became a material question, whether, *on the occasion of a certain alleged arrest*, L. touched K., &c. The defendant's evidence, as set out, was, L. put his arms round him, and embraced him; innuendo, that L. had, *on the occasion to which the said evidence applied*, touched the person of K.: held, that the materiality of the evidence did not sufficiently appear; *et per Bayley, J.*—An indictment must be good without the help of argument or inference. In the case of perjury, the indictment must show, either by a statement of the proceedings, or by other averments, that the question to which the offence related was material. That is not shown here in either way. The words on which perjury is assigned, if taken without innuendoes, have no necessary reference to the occasion of an alleged arrest; nor is there any thing in the indictment to connect them with it. It is contended, that the inquiry to which part of the evidence was an answer, would not have been relevant if applicable to any other matter and occasion than those now in question; but we know nothing of the merits of the case except from the indictment. The innuendoes rather introduce greater doubt than greater certainty, and

lessen the force of the argument that only one occasion could have been contemplated. I am, therefore, of opinion, that the indictment is defective and the judgment ought to be reversed. (*R. v. Nicholl*, 1 B. & Ad. 21.) 3. Evidence.

Conclusion.]—After the perjury has been assigned, the indictment usually concludes, “that so the defendant did commit wilful and corrupt perjury.” (2 *Leach*, 860; *Stark.* 195.) But it should seem that this conclusion of law from the premises is immaterial. (See 2 *Leach*, 856; 2 *Chit. C. L.* 312.) Conclusion.

3. EVIDENCE OF OFFENCE AT COMMON LAW.

The evidence of one witness is not sufficient to convict of perjury, as, in such case, there would be only one oath against another. (*R. v. Lee*, 2 *Russ.* 545.) But two witnesses are not essentially requisite to disprove the particular fact sworn to; for, if any material circumstance be proved by other witnesses in confirmation of the witness who gives the direct testimony of perjury, it may turn the scale, and warrant a conviction. *Ib.* And the rule requiring two witnesses does not apply where the evidence consists of the contradictory oath of the party accused. (*R. v. Knill*, 5 B. & Ald. 929, *n.*, and 2 *Russ.* 545.) Number of witnesses.

To convict a man of perjury, a probable evidence is not enough; but it must be a strong and clear evidence, and the witnesses must be more numerous than those on the side of the defendant; for otherwise it is only oath against oath. (*Reg. v. Muscot*, 10 *Mod.* 194; *R. v. Broughton*, 2 *Str.* 1229.) For there is this difference between a prosecution for perjury and a bare contest about property, that, in the latter case, the matter stands indifferent, and, therefore, a credible and probable witness shall turn the scale in favour of either party; but in the former, presumption is even to be made in favour of innocence, and the oath of the party will have a regard paid to it, until disproved. (*Reg. v. Muscot*, 10 *Mod.* 194.) Probable evidence.

Proof of the evidence set out in the indictment, by a witness who speaks from memory, but will not swear that he has given the whole of the defendant's former testimony, but says that he has stated, to the best of his recollection, all that was material to the transaction in question, and is positive that nothing was said qualifying the evidence proved, is sufficient to go to the jury. (*R. v. Rowley*, R & M., C. C. R. 111; *Car. C. L.* 186, S. C.) Speaking from memory.

Though the contrary doctrine appears at one time to have prevailed, it is now well established that the party prejudiced by the perjury is a competent witness to prove the offence; and though, at one time, it was considered necessary to show that such party had satisfied the judgment in the suit in which the perjury was committed, before he could be admitted as a witness, on the ground that he might possibly make use of a conviction for the purpose of obtaining relief in equity against the judgment, yet, as it is now an established rule, that a court of equity will not grant relief on a conviction which proceeds on the evidence of the prosecutor, there can be no objection to his being admitted a witness. And, even if the indictment proceed upon the 5 Eliz. c. 9, which gives the prosecutor half the forfeiture incurred, it is conceived that, as in an action to recover his moiety, he would be precluded from giving the conviction in evidence, there would be no objection to his competency. (2 *Russ.* 1791, and the authorities there cited; see also 1 *Phil. Ev.* 140. But this latter doctrine seems very doubtful; and see *Bull. N. P.* 289, and *R. v. Williams*, 9 B. & C. 549, 4 *Man. & R.* 471.) Prosecutor a competent witness.

Proof that the person before whom the oath was taken acted in the capacity of an officer fully capable of administering the oath, will suffice to raise a presumption that he had competent authority to receive it; it being a gene- Court before whom oath taken.

3. Evidence.

ral presumption of law, that an individual acting in a public capacity is duly authorized so to do. (*R. v. Verelst*, 3 *Campb.* 433; *Berryman v. Wise*, 4 *T. R.* 366; and see *R. v. Creswell*, 24th Dec. 1816; 2 *Chit. C. L.* 312, a.) Sometimes, special facts must be proved, to show the existence of the authority, where it is of a special nature, and limited to particular circumstances. Thus, on an indictment against a bankrupt for perjury on his last examination before the commissioners, it is necessary to prove the bankruptcy. (*R. v. Punshon*, 3 *Campb.* 96; 2 *Chit. C. L.* 312, a.; 1 *Stark. C. L.* 511; 3 *Stark. Ev.* 1135, 6.) But such strict proof would not be required if the indictment were against a witness for perjury, before such commissioners. (*R. v. Punshon*, 3 *Campb.* 96.)

Occasion of oath.

On an indictment for perjury, in an answer to a bill in equity, the bill, or a copy of it, must be proved as usual. (See *Leach*, 179, 3d ed.; *Studdy v. Sanders*, 2 *D. & R.* 348; *Bull. N. P.* 243, 4.) As to the mode of proving it, see *ante*, Vol. II. p. 54. (*R. v. Laycock*, 4 *C. & P.* 326.)

On an indictment for perjury committed on the trial of a former cause, the *postea* alone is sufficient evidence to prove that there was a trial, without showing a copy of the final judgment. (*Bull. N. P.* 243; 2 *P. W.* 563; *Pitton v. Walter*, *Stra.* 162; 2 *Hawk. c.* 46, s. 56; *ante*, Vol. II. p. 52.)

Where the prosecutor, to prove a trial at nisi prius, put in the nisi prius record, with the minute of the verdict indorsed on it by the associate, there was no *postea* drawn up, and the associate stated that none could be drawn up, as a rule for a new trial was pending, it was held sufficient proof of the trial at nisi prius. (*R. v. Browne*, 3 *C. & P.* 572; *M. & M.*, *C. N. P.* 315, S. C.; and see *R. v. Smith*, 8 *B. & C.* 341.)

On an indictment at common law for perjury in an affidavit sworn before the Court of King's Bench, it is not necessary to prove that the affidavit was filed or exhibited, or in any manner used by the party. (*R. v. Crossley*, 7 *T. R.* 315.) But this is not so when the party is indicted under the statute of Elizabeth. (*Skin.* 403.) Where the perjury is assigned in an answer of the defendant in chancery, the answer itself must be produced, from the proper office. (*Bul. N. P.* 239; *Bac. Ab. Ev.* 624; 3 *Stark. Ev.* 1138.) And, in an indictment for such perjury, it should be proved that the jurat is in the handwriting of a master in chancery. (*R. v. Morris*, 2 *Burr.* 1189; 1 *Leach*, 50; *R. v. Benson*, 2 *Campb.* 508; and see *ante*, Vol. II.)

Identity.

The identity of the party charged with the perjury should be clearly proved: this may be done as in other cases. (See 1 *Leach*, 327; 3 *Stark. Ev.* 1139.) It is a question for a jury; but evidence of a conclusive nature is requisite, in order to show that the defendant was the person who took the oath. (3 *Stark. Ev.* 1139.) It is sufficient evidence of the identity of the prisoner with the party who actually took the oath in question, if his handwriting be proved. (*R. v. Morris*, 2 *Burr.* 1189; 1 *Leach*, 50; *Anon.* 3 *Mod.* 117; 2 *Chit. C. L.* 312, b.)

The perjury itself.

The *perjury itself* will be sufficiently shown by evidence that the defendant swore in substance and effect as stated in the indictment; and, as to what is a variance, see *ante*, 164; 3 *Stark. Ev.* 1141.

The whole of the defendant's evidence must be proved; because he might in one part have corrected any mistake made in another; though, when the perjury was committed on a cross-examination respecting a fact, not connected with the general merits of the case, proof of all the cross-examination will suffice. (*R. v. Jones, Peake*, 37; *R. v. Dowlin*, *id.* 170; 2 *Chit. C. L.* 312.) And it has been ruled in a case of a similar nature, that it is sufficient for the prosecutor to prove all the evidence given by the defendant referable to the fact on which perjury is assigned. (*R. v. Rowley*, *R. & M. C. N. P.* 299; 3 *C. & P.* 498, S. C.)

As to the mode of proving a bill and answer, and other written documents, see *ante*, "Evidence," Vol. II. 54, &c.

The innuendoes, if material, should be proved. (1 *Stark. C. L.* 2d. ed. 118; *R. v. Aylett*, 1 *T. R.* 63; *Roberts v. Camden*, 9 *East*, 83, 95; *Wilner v. Hold*, *Cro. Car.* 489; *Smith v. Carey*, 3 *Campb.* 461; 7 *Price*, 544; *ante*, 165.)

4. *Certiorari*,
&c.
Innuendoes.

The *materiality* of the perjury *must be proved*. (See *ante*, 161.)

Materiality.

If the matter referred to by the averment be material, and affects the charge in such a manner, that the omission of it would alter the character of the perjury assigned, either in the degree in which it is charged to be injurious, or in the degree of guilt, the court will hold it must be strictly proved as it is charged, and the failure of proof, or the disproof of it, would be fatal. (See *Cowp. Rep.* 72; *Teesdale v. Clement*, 1 *Chit. Rep.* 603; *Shepherd v. Bliss*, 2 *Stark.* 510; *R. v. Burdett*, 4 *B. & Ald.* 314.) But, where the matters referred to consist of several particulars, some of which are material, and others not, the court will distinguish between such as are material and such as are not; and, if any one particular be disproved, to which the perjury is alleged to relate, if the charge would remain entire, and constitute perjury, without such proof, the court will not consider it to be a variance. (See *May v. Brown*, 3 *B. & C.* 113; 4 *D. & R.* 670, *S. C.*; 2 *Chit. C. L.* 312, *d.*)

To prove that the perjury was *wilful* and *corrupt* perjury, evidence may be given of expressions of malice used by the defendant towards the person against whom he gave the false evidence. (*R. v. Munton*, 3 *C. & P.* 498.) The defendant may prove that the matter sworn to falsely was not sworn to corruptly. Though perjury be assigned by the defendant in his answer, affidavit, or deposition, in writing, the defendant may prove that an explanation was afterwards given, qualifying or limiting the first answer. (3 *Stark. Ev.* 1145, 6; *R. v. Da. Ma. Carr*, *Sid.* 418; 2 *Chit. C. L.* 312, *d.*)

Wilfulness.

A party who is indicted separately with others for perjury, in swearing to the same fact, either of them, before conviction, may be a witness on the trial of the others. (*Fortes. Rep.* 247; 2 *Roll. Ab.* 685; 2 *Hale's P. C.* 280.)

Evidence of Joint
Offender.

4. CERTIORARI, &c.

It seems that the court will not ordinarily, at the prayer of the defendant, grant a certiorari for the removal of an indictment for perjury; for such crime deserves all possible discountenance, and the certiorari might delay, if not wholly discourage, the prosecution. (2 *Hawk. c.* 27, s. 28; see *R. v. Richardson*, 2 *Leach*, *C. C.* 500; "*Certiorari*," Vol. I.)

Certiorari.

Where the party is acquitted, no new trial is allowed in the case of perjury. (*R. v. Fenwick*, 1 *Sid.* 135.) But a new trial will be granted after verdict for the king, where it appears that the false swearing arose from mistake. (*R. v. Smith*, 2 *Show.* 165; 2 *Jones*, 163, *S. C.*)

New trial.

Where a true bill for perjury was found, and the judge at the assizes having refused to try it on account of manifest imperfections in the record, a new bill was preferred, whereupon the defendant was found guilty; but a new trial was granted, and then the prosecutor, instead of taking down the old record again, preferred a new indictment (for the same offence), and removed it into the Court of King's Bench by certiorari; the court refused to stay proceedings upon that indictment until the prosecutor paid the costs of the former proceedings. (*R. v. Tremearne*, 5 *B. & C.* 761; 8 *D. R.* 590, 684, *S. C.*)

Second indict-
ment.

As to quashing indictments for perjury, see *ante*, 162.

Quashing Indict-
ment.

5. *Punishment of, &c.*

5. PUNISHMENT AND CONSEQUENCES.

Punishment.

Perjury at common law is punishable by fine, imprisonment, and pillory, at the discretion of the court before whom the offender is convicted; and now, by the 3 Geo. IV. c. 114 (a), hard labour may be added.

Further punishment of perjury or subornation.

For the further punishment of perjury, or subornation of perjury, it is enacted by the 2 Geo. II. c. 25 (made perpetual by the 9 Geo. II. c. 18), "that, besides the punishment already to be inflicted by law for so great crimes, it shall and may be lawful for the court or judge before whom any person shall be convicted of wilful and corrupt perjury, or subornation of perjury, according to the laws now in being, to order such person to be sent to some house of correction within the same county, for a time not exceeding seven years, there to be kept to hard labour (a) during all the said time, or otherwise to be transported to some of his majesty's plantations beyond the seas, for a term not exceeding seven years, as the court shall think most proper."

Perjured person not to be a juror or witness.

A person convicted of perjury is disabled from being a juror, (2 *Hawk.* c. 43, s. 25); or a witness, (2 *Hawk.* c. 46, s. 19; 2 *Russ.* 1798; *Bla. Com.* 137; see *ante*, "Evidence," Vol. II.)

But a pardon will restore his competency, except in the case of a conviction for perjury, or subornation of perjury, on the 5 Eliz. c. 9. s. 5. which provides that the offender shall never be admitted to give evidence in courts of justice until the judgment be reversed; and therefore the king's pardon will not, in such case, make him a competent witness. (1 *Phil. Ev.* 140; 2 *Russ.* 1798.)

II. Subornation of Perjury at Common Law.

Subornation at common law.

Subornation of perjury, by the common law, seems to be *an offence in procuring a man to take a false oath, amounting to perjury, who actually taketh such oath.* (2 *Hawk.* c. 69, s. 9.)

But it seemeth clear that, if the person incited to take such an oath do not actually take it, the person by whom he was so incited is not guilty of subornation of perjury; yet it is certain that he is liable to be punished, not only by fine, but also by infamous corporal punishment. (2 *Hawk.* c. 69, s. 3; *R. v. Phillips*, 6 *East*, 464; *R. v. Higgins*, 2 *East, Rep.* 17; *Reg. v. Edwards*, 2 *Russ.* 518. See "Attempts," Vol. I.)

Two or more persons may be indicted for subornation of perjury. (*Reg. v. Rhodes*, 2 *Ld. Raym.* 886.)

Indictment.

By the 23 Geo. II. c. 11, s. 2, "In every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence, without setting forth any part of the record or proceedings, or the commission or authority of the court or person before whom the perjury was committed, or was agreed or promised to be committed. (See *ante*, 162.)

It does not seem to be necessary to set forth the means used by the defendant to effect his design; but it is sufficient to state that he, "by sinister and unlawful labours and means," procured the commission of the perjury. (*Reg. v. Rhodes*, 2 *Ld. Raym.* 886; 2 *Leach*, 796.) And, although it must appear on the face of the proceedings that the intention of the defendant was consummated, the word "procured" or "persuaded" will sufficiently convey this idea. (*Reg. v. Rhodes*, 2 *Ld. Raym.* 889.)

Evidence.

In support of an indictment for subornation, the record of the witness's conviction for perjury is no evidence against the suborners, but the offence of the perjured witness must be again regularly proved. (1 *Leach*, 455; *Russ.* 1796; see, further, as to the evidence, *ante*, 167 to 169.)

Punishment.

The punishment is prescribed by the 2 Geo. II. c. 25, *supra*; and the same punishment may, it seems, be inflicted as in perjury itself. (See *Flower's Case*, 5 *Co. Rep.* 99.)

(a) See the 3 Geo. IV. c. 114. Vol. III. "Hard Labour."

III. Perjury, and Subornation of, by Stat. 5 Eliz. c. 9.

As to subornation of perjury, in the first place, by the 5 Eliz. c. 9, [made perpetual by the 29 Eliz. c. 5, s. 2, and 21 Jac. I. c. 28, s. 8,] it is enacted (s. 3) that all and every such person and persons which shall unlawfully and corruptly procure any witness or witnesses, by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt perjury, in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint, or information, in anywise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts, or damages, in any of the courts, viz. the king's courts of Chancery, the Star Chamber, the Whitehall, or elsewhere within any of the king's dominions of England or Wales, or the marches of the same, where any person or persons have, or from thenceforth should have authority by virtue of the king's commission, patent, or writ, to hold plea of land, or to examine, hear, or determine any title of lands, or any matter or witnesses concerning the title, right, or interest, of any lands, tenements, or hereditaments, or in any of the queen's majesty's courts of record, or in any leet, view of frank-pledge, or law day, ancient demean court, hundred court, court-baron, or in the court or courts of the Stannary in the counties of Devon and Cornwall; or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses, which shall be sworn to testify *in perpetuam rei memoriam*; that then every such offender or offenders shall, for his, her, or their said offence, being thereof lawfully convicted or attainted, lose and forfeit the sum of forty pounds.

Procuring any witness to commit perjury in any matter in suit, &c. punishable by forfeiture of 40*l*.

Sect. 4. "And if it happen any such offender or offenders, so being convicted or attainted as aforesaid, not to have any goods or chattels, lands or tenements, to the value of forty pounds, that then every such person so being convicted or attainted of any of the offences aforesaid, shall for his or their said offence suffer imprisonment by the space of one half-year (*a*), without bail or mainprize, and to stand upon the pillory (*b*), the space of one whole hour, in some market town next adjoining to the place where the offence was committed, in open market there, or in the market town itself where the offence was committed."

Such offender not having goods, &c. to the value of 40*l*. to suffer imprisonment.

Sect. 5. And that no person or persons, being so convicted or attainted, be from thenceforth received as a witness to be deposed and sworn in any court of record (within England, Wales, or the marches of the same,) until such time as the judgment given against the said person or persons shall be reversed by attain or otherwise; and that, upon every such reversal, the parties grieved to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be first given against them or any of them, by action or actions, to be sued upon his or their case or cases, according to the course of the common laws of this realm.

Persons convicted not to be witnesses until judgment reversed.

Sect. 6 enacts, that if any person or persons, either by the subornation, unlawful procurement, sinister persuasion or means of any others, or by their own act, consent, or agreement, wilfully and corruptly commit any manner of wilful perjury, by his or their deposition in any of the courts before mentioned, or being examined *ad perpetuam rei memoriam*, that then every person or persons so offending, and being thereof duly convicted or attainted by the laws of this realm, shall for his or their said offence lose and forfeit twenty pounds, and to have imprisonment by the space of six months without bail or mainprize; and the oath of such person or persons so offending from thenceforth not to be received in any court of record within this realm of England or Wales, or the marches of the same, until such time as the judgment given against the said person or persons shall be reversed by attain or otherwise: and that upon every such reversal the parties grieved to recover his or their damages against all and every such person and persons as

Persons committing perjury to forfeit 20*l*. and to be imprisoned for six months; their oath not to be received until judgment reversed.

(*a*) See stat. 3 Geo. IV. c. 114; (*b*) See stat. 56 Geo. III. c. 138; "Hard Labour," Vol. III. post, "Pillory," &c.

3. *By Statute.* did procure the said judgment so reversed to be given against them or any of them, by action or actions to be sued upon his or their case or cases, according to the course of the common laws of this realm.

5 Eliz. c. 9.

And if such offenders have not goods to the value of 20*l* they are to be set in the pillory, and to be disabled from being witnesses until judgment reversed.

Sect. 7. And if it happen the said offender or offenders so offending not to have any goods or chattels to the value of twenty pounds, that then he or they to be set on the pillory (a), in some market place within the shire, city, or borough where the said offence shall be committed, by the sheriff or his ministers, if it shall fortune to be without any city or town corporate; and if it happen to be within any such city or town corporate, then by the said head officer or officers of such city or town corporate, or by his or their ministers, and there to have both his ears nailed, and from thenceforth to be discredited and disabled for ever to be sworn in any of the courts of record aforesaid, until such time as the judgment shall be reversed, and thereupon to recover his damages in manner and form before mentioned.

Disposal of forfeitures.

Sect. 8. One moiety of the said forfeitures shall be to the queen, and the other moiety to such person as shall be grieved, hindered, or molested by reason of any of the offences before mentioned, that will sue for the same, &c.

Trial of offences.

Sect. 9 enacts, that as well the judge and judges of every such of the said courts where any such suit shall be, and whereupon any such perjury shall be committed, as also the justices of assize and gaol delivery, and justices of peace at their quarter sessions, both within the liberties and without, may inquire of, hear, and determine all offences against the said act.

Proclamation at assizes.

Sect. 10. This act is to be proclaimed at all assizes.

Act is not to extend to spiritual courts.

Sect. 11 provides that this act shall no way extend to any spiritual or ecclesiastical court, but that every such offender, as shall offend in form as aforesaid, shall be punished by such usual and ordinary laws as are used in the said court.

Nor to restrain other punishment of perjury.

And sect. 13 also provides, that this statute shall not restrain the authority of any judge having absolute power to punish perjury before the making thereof; but that every such judge may proceed in the punishment of all offences punishable before the making of the said statute, in such wise as they might have done and used to do, to all purposes, so that they set not on the offender less punishment than is contained in this act.

Statute extends only to witnesses.

Any Witness.—If the defendant perjureth himself in his answer, in the Chancery, Exchequer Chamber, or the like, he is not punishable by this statute; for it extendeth but to witnesses. (3 *Inst.* 166.)

But he is punishable for the same by indictment at the common law. (*R. v. Morris*, 3 *Burr.* 1189.)

Mode of proceeding.

By any Writ, Action, Bill, Complaint, or Information.—It hath been resolved that these words are to be extended to the latter clause concerning perjury, as well as to this concerning subornation; because it cannot well be intended, that the makers of the act, who inflict a greater penalty on subornation of perjury than on the perjury itself, should mean to extend the purview of the law in relation to what they esteemed the lesser crime, farther than in relation to that which they esteemed the greater. (1 *Hawk.* c. 69, s. 19; *Flower's Case*, 5 *Rep.* 99 a.)

But it is to be observed, that perjury or subornation in an action depending by indictment or criminal information, is not within this statute; but only in an action depending by writ, action, bill, complaint, or information. (3 *Inst.* 164.)

A party must be aggrieved.

Half to the Party grieved.—It hath been collected from this clause, that no false oath is within the meaning of this statute which doth not give some person a just cause of complaint: and upon this ground it hath been said, that he who swears a thing which is true, but not known by him to be so, is

(a) See stat. 56 Geo. III. c. 138, *post*; "*Pillory*;" and stat. 3 Geo. IV. c. 114, "*Hard Labour*," Vol. III.

not within this statute; because, howsoever heinous his offence may be in its own nature, yet when it proves in the event to be in maintenance of the truth, it cannot be said to give him a just cause of complaint, who would take advantage against another from his want of legal evidence to make out the justice of his cause. Also from the same ground it seemeth clearly to follow that no false oath can be within the statute, unless the party against whom it was sworn suffered some kind of disadvantage by it; for otherwise it cannot be said that any one was grieved by it; and therefore, in every prosecution upon this statute, it must appear upon the trial that there was such a suit depending, wherein the party might be prejudiced in the manner supposed. (1 *Hawk. c. 69, s. 23.*)

Justices at their Quarter Sessions.]—And one justice (Mr. Dalton says) may bind the offender over to the sessions. (*Dalt. c. 70.*) Justices at sessions.

But because the prosecution upon this statute is more difficult than by indictment at the common law, and some one must be aggrieved by the offence, offenders are seldom prosecuted upon this statute, especially at the sessions; and it seems generally the safer way to proceed by indictment at the common law, at the assizes, or in the Court of King's Bench.

Shall not restrain.]—From this it seemeth undoubtedly to follow, that the Court of King's Bench, &c., proceeding upon an indictment or information of perjury or subornation of perjury at the common law, may not only set a discretionary fine on the offender, but also condemn him to the pillory, without making any inquiry concerning the value of his lands or goods. (1 *Hawk. c. 69, s. 16.*) Punishment.

The statute 5 Eliz. prescribes the punishment; and see further, as to the punishment, the 2 Geo. II. c. 25, *ante*, 170.

Either by Subornation or otherwise.]—It is not necessary to set forth in the indictment, whether the party took the false oath through the subornation of another, or without any such subornation, these words being only superfluity. (1 *Haw. c. 69, s. 18.*) Indictment.

Wilfully and Corruptly.]—These words are necessary in an indictment or action on this statute, and cannot be supplied by adding “against the form of the statute,” or by concluding “and so a wilful and corrupt perjury did commit.” (1 *Hawk. c. 69 s. 17*; and see *R. v. Stevens*, 5 *B. & Cres.* 246; *R. v. Richards*, 7 *D. & R.* 665; *ante*, 164.)

An indictment for perjury cannot be maintained, where the supposed perjury depends on the construction of a deed; but the remedy is by a civil action, if the defendant acted inconsistently with the obligation entered into. (*R. v. Crespigny*, 1 *Esp.* 280.)

Like other indictments upon statutes, the indictment should conclude “*contra formam*,” though, if this be omitted, it will be good as at common law, and the defendant may be punished with the penalties which would be inflicted if the act had not been referred to, but cannot be sentenced to the additional punishment prescribed in the statute. (2 *Hale*, 191, 2; *Cro. C. C.* 8th ed. 40. See observations in *Deacon*, *C. D.* 1008.)

In support of an indictment on the statute, the evidence should show that the affidavit, &c. was used conformably to the indictment. (*R. v. Crossley*, 7 *T. R.* 319.) Evidence.

The party injured is not it seems a competent witness. (*Ante*, 167.)

The prosecutor, unless he is also a witness, and his name appears as such on the back of the bill, cannot claim costs as a party grieved, if the indictment is at common law, but only when it is framed on the statute. (*R. v. Doyle*, 1 *Esp. Rep.* 126.) Costs.

IV. Perjury under particular Statutes.

The offence of Perjury is created and punished by several particular statutes. (See *Deacon, C. D.* 1009.)

As to Perjury relative to Government Securities, see the 48 Geo. III. c. 142; 52 Geo. III. c. 129.

Annuities, Life, 10 Geo. IV. c. 24, s. 44.

Exchequer Bills, 51 Geo. III. c. 15, s. 5, 9, 10.

Stamps, 55 Geo. III. c. 184, s. 52, 53, *post*, "Stamps."

Newspapers, 38 Geo. III. c. 78, s. 8. See "Newspaper," Vol. III.

Customs. See "Excise," Vol. II.

Excise. See "Excise," Vol. II.

Naval Stores, 39 & 40 Geo. III. c. 89, s. 36. See "Stores," *post*.

Quarantine, 6 Geo. IV. c. 78, s. 28, 29. See "Quarantine," *post*.

Pilotage, 6 Geo. IV. c. 125, s. 80. See "Ships," *post*.

Vessels carrying Passengers, 43 Geo. III. c. 56, s. 7.

Slave Trade, 5 Geo. IV. c. 113, s. 41, 58.

Coals. See "Coals," Vol. I.

Bread. See "Bread," Vol. I.

Attornies, 12 Geo. I. c. 29, s. 4. See "Attorney."

Insolvents, 7 Geo. IV. c. 57, s. 71. See "Insolvents," Vol. III.

Bankrupts, 6 Geo. IV. c. 16, s. 36, 37, 99. See "Bankrupt," Vol. I.

Registry Acts, 2 & 3 Anne, c. 4, s. 18; 6 Geo. IV. c. 110. See "Excise," Vol. II.

Inclosure Acts, 41 Geo. III. c. 109, s. 1, 3, 4, 33, 42, 43. See "Inclosures," Vol. III.

At Elections, 2 Will. IV. c. 45, s. 58. See "Parliament," *ante*.

V. Power and Duty of Justices in.

Power of justices
of the peace
therein.

Mr. Hawkins says, it hath been of late settled, that justices of the peace have no jurisdiction over perjury at the *common law*; the principal reason of which resolution, he says, as he apprehended, was, that inasmuch as the chief end of the institution of the office of these justices was for the preservation of the peace against personal wrongs and open violence, and the word *trespass*, (in the commission,) in its most proper and natural sense, is taken for such kind of injuries, it shall be understood in that sense only, or, at most, to extend to such other offences only as have a direct and immediate tendency to cause such breaches of the peace: as, libels and such like, which, on this account, have been adjudged indictable before justices of the peace. (2 *Hawk.* c. 8, s. 38.)

And in the case of *R. v. Bainton*, 2 *Str.* 1088, an indictment at the quarter sessions for perjury at the common law was quashed for want of jurisdiction; and was said to have been done so about three years before, in the case of *R. and Westiness*. (*Et vide Reg. v. Yarrington*, 1 *Salk.* 406.)

And an indictment found at the quarter sessions for perjury at common law is void, the sessions having no jurisdiction over the offence; and if an indictment so found is removed by *certiorari*, and the case comes down for trial at *nisi prius*, the judge will not try it. (*R. v. Haynes, R. & M., N. P. C.* 298.)

Justices of the peace have jurisdiction over perjury created by the 5 *Eliz.*, *ante*, 171.

Though there does not seem to be any difference in the power of magistrates and judges to issue their warrants in cases of misdemeanor, and they have

therefore a power so to do in perjury, as well as in other cases, yet in the practice of the London police-offices, no warrant is usually granted to apprehend a party accused of this offence, before an indictment has been found against him. But by stat. 23 Geo. II. c. 11, s. 3, the judge of assize (sitting the court, or within twenty-four hours after), may direct any witness, if there shall appear to him a reasonable cause, to be prosecuted for perjury; and may assign the party injured, or other person undertaking such prosecution, counsel, who are to do their duty *gratis*: and such prosecution, so directed, shall be carried on without any duty or fees whatsoever. And the clerk of assize, or other proper officer of the court, shall give *gratis*, to the party injured or prosecutor, a certificate of the same being directed, together with the names of the counsel assigned him, which certificate shall be sufficient proof of such prosecution being directed: provided that no such direction or certificate shall be given in evidence on the trial.

6. Forms.

Process.

Judges may direct prosecution for perjury.

VI. Forms, List of (a).

COMMITMENT for Perjury (No. 1).

INDICTMENT for Perjury in an Affidavit to *hold to bail* made before a Judge in King's Bench (No. 2). The like where the Affidavit was sworn before the Filacer for Middlesex, in Common Pleas (No. 3). The like where the Affidavit was sworn before a Commissioner of King's Bench (No. 4).

INDICTMENT for Perjury in *justifying bail* in Court of King's Bench (No. 5). The like for Persons justifying as bail before a Judge at chambers (No. 6).

INDICTMENT for Perjury by a Witness on a *trial* in King's Bench, at Westminster, at the sittings in term (No. 7). The like for Perjury on a trial at the *Assizes* (No. 8).

INDICTMENT for Perjury in an Affidavit sworn in open court, in opposition to a *rule to show cause* why a regular judgment should not be set aside (No. 9).

INDICTMENT for Perjury in an Answer sworn before a Master in *Chancery* (No. 10).

INDICTMENT for Perjury in a Cause in the *Ecclesiastical Court* (No. 11).

INDICTMENT for Perjury upon a *Complaint* before a *Magistrate* (No. 12).

INDICTMENT for Perjury in giving Evidence on a Trial, at Westminster, of an issue on an indictment for Perjury (No. 13).

COMMITMENT for *Subornation* of Perjury (No. 14).

INDICTMENT for a like offence (No. 15).

Kent. [The county wherein the commitment is made.] *J. P., Esq., one of his* (1.) Commitment
majesty's justices of the peace for the said county, to the said constable of _____, for perjury.
in the said county, and to the keeper of the common gaol at _____, in the said
county.

These are to command you, the said constable, in his majesty's name, forth-
with to convey and deliver into the custody of the said keeper of the said common
gaol, the body of C. D., charged this day, before me, the said justice, on the
oath of A. B., of _____, and others, for that the said C. D., [state the offence
thus:] on the _____ day of _____, A. D. _____, at the parish of _____, in
the said county, falsely, wickedly, wilfully, and corruptly, did commit wilful and
corrupt perjury [in an affidavit to hold to bail then and there made by him the
said A. B.;] or, "in the testimony which he gave upon oath, as a witness at
the trial of a certain cause between C. D. and E. F. at the assizes for the county
of York, then and there holden;" or, "in the testimony he gave upon oath, in
his examination before J. P., Esq., one of his majesty's justices of the peace,
upon a certain complaint," or, "information then and there preferred by one

(a) It would be extending this work too far to insert a collection of all the forms applicable to so extensive an offence as perjury. Only those forms which may be most generally useful are given. See a full collection in 2 *Chit. Crim Law*.

6. Forms.

C. D."] [If the perjury be on a statute, add, "*against the form of the statute in such case made and provided*". And you, the said keeper, are hereby required to receive the said *C. D.* into your custody, in the same common gaol, and him there safely to keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal, the day of , in the year of our Lord J. P.

(2.) Indictment for perjury in an affidavit to hold to bail made before a judge.

Central Criminal Court, to wit. The jurors for our lord the king upon their oath present, that C. D., late of the parish of , in the county of , labourer, wickedly and maliciously contriving and intending unjustly to aggrieve one A. B., and to put him to great expense, and also unjustly and maliciously to cause him to be arrested for the sum of 100l. by virtue of a certain writ of our lord the king, called a capias, to be sued out and prosecuted at the suit of the said C. D., out of the court of our said lord the king, before the king himself at Westminster, on the day of , in the year of the reign of our Lord the now king, William the Fourth, at [London, in the parish of St. Dunstan in the West, in the ward of Farringdon Without], and within the jurisdiction of the said Central Criminal Court, came in his proper person, before Sir R. B., Knight, then being one of the justices of the court of our lord the king, before the king himself, and then and there produced a certain affidavit in writing of the said C. D., and then and there before the said Sir R. B., Knight, in due form of law was sworn, and took his corporal oath upon the Holy Gospel of God, concerning the truth of the matters contained in the said affidavit (he the said Sir R. B., Knight, then and there having a lawful and competent power and authority to administer the said oath to the said C. D., in that behalf); and that the said C. D., being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there upon his oath aforesaid, before the said Sir R. B., Knight (the said Sir R. B., Knight, then and there having a lawful and competent power and authority to administer the said oath to the said C. D., in that behalf), falsely, corruptly, knowingly, wilfully, and maliciously, in and by his said affidavit in writing, did depose and swear, in substance and to the effect following, that is to say, that the said A. B. was then justly and truly indebted unto him the said C. D. in the sum of [100l.] for money lent and advanced [as in the affidavit] by the said C. D. to the said A. B., and at his the said A. B.'s request, [or the affidavit may be set out verbatim with innuendoes] as in and by the said affidavit of the said A. B. will more fully and at large appear. Whereas in truth and in fact the said A. B., at the time the said C. D. took his said oath and made his affidavit aforesaid, was not indebted to him the said C. D. in the sum of [100l.] for [money lent and advanced by the said C. D. to the said A. B.]; and whereas in truth and in fact the said A. B. was not then indebted to the said C. D. in the sum of [100l.] on any account whatsoever. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said C. D., on the day and year aforesaid, at London aforesaid, in the parish and ward aforesaid, and within the jurisdiction of the said Central Criminal Court, before the said Sir R. B., Knight, (he the said Sir R. B., Knight, then and there having such power and authority as aforesaid,) by his own act and consent, and of his own most wicked and corrupt mind, in manner and form aforesaid, falsely, wickedly, wilfully, and corruptly did commit wilful and corrupt perjury; to the great displeasure of Almighty God, in contempt of our lord the king and his laws, to the great damage of the said A. B., to the evil example of all others, and against the peace of our said lord the king, his crown and dignity.

Conclusion.

(3.) The likewhere the affidavit was sworn before the filacer for Middlesex, in C. P. (a).]

Central Criminal Court, to wit. The jurors for our lord the king, upon their oath present, that C. D., late of the parish of , in the county of , labourer, wickedly and maliciously contriving and intending one A. B. unlawfully to aggrieve, and to put him to great expense of his monies, and also to cause the said A. B. to be arrested for the sum of [100l.] by virtue of a writ of capias to be sued out of the court of our lord the king before his justices of the bench at Westminster

(a) See a form, 2 Chit. C. L. 321.

on the day of in the year of the reign of our lord the now king, William the Fourth [date of affidavit], at the parish of [St. Andrew, Holborn], in the county of [Middlesex], and within the jurisdiction of the Central Criminal Court, came in his own proper person, before one E. F., then being deputy filacer for the county of Middlesex, and then and there, to wit, on the day and year aforesaid, at the parish aforesaid, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court, in due form of law was sworn, and did take his corporal oath upon the Holy Gospel of God before the said E. F. (he the said E. F. then and there having sufficient and competent power and authority to administer an oath to the said C. D. in that behalf,) and that the said C. D. being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there, before the said E. F., upon his the said C. D.'s oath aforesaid, falsely, maliciously, wickedly, wilfully, and corruptly did say, depose, swear, and make affidavit in writing, in substance and to the effect following, that is to say, that the said A. B. was indebted to him the said C. D. in the sum of [100l. and upwards], for [money lent and advanced by the said C. D. to and for the use of the said A. B., and at his request; or, instead of stating the substance of the affidavit, the affidavit itself may be set out with innuendoes]. Whereas in truth and in fact the said A. B. was not at the time of making the said affidavit by the said C. D., as aforesaid, indebted to the said C. D. in the sum of [100l.] for [money lent and advanced by the said C. D. to the said A. B.]; and whereas in truth and in fact the said A. B. was not, at the time of making the said affidavit, indebted to the said C. D. in the said sum of [100l.] upon any account whatever. And so the jurors aforesaid, upon their oath aforesaid, do say, &c. [Conclude as in form, No. 2, ante, 176.]

(venue.) The jurors of our lord the king upon their oath present, that C. D., late of the parish of , in the county of , labourer, being an evil-disposed person, and wickedly contriving and intending to aggrieve, injure, and prejudice one A. B., and cause him to be arrested and held to bail, upon a writ of capias, to be sued out of the court of our lord the king, before the king himself, at the suit of the said C. D., on the day of , in the year of the reign of our lord the now king William the Fourth [day of swearing affidavit], at, &c. [venue], came in his proper person, before E. F., gentleman, then and there being a commissioner duly authorized and empowered to take and receive affidavits, in, touching, and concerning matters and proceedings of and in the said court of our said lord the king, before the king himself, and that the said C. D. then and there, to wit, on the day and year aforesaid, at, &c. [venue] aforesaid, was duly sworn, and did take his corporal oath upon the Holy Gospel of God, before the said E. F. (he the said E. F. then and there having sufficient and competent power and authority to administer the said oath to the said C. D. in that behalf); and that the said C. D., being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there, before the said E. F., as such commissioner as aforesaid, upon his oath aforesaid, falsely, maliciously, wickedly, wilfully, and corruptly, did depose, swear, and make affidavit in writing, in substance and to the effect following, &c. [Here set forth the perjury and assignments, and conclude as directed in form, No. 3, supra.]

(4.) The like where the affidavit was sworn before a commissioner of K. B. (a).

Central Criminal Court, to wit. The jurors for our lord the king on their oath present, that on the day of in the [1st] year of the reign of our lord the now king, William the Fourth, a certain action was depending in the court of our said lord the king, before the king himself, at Westminster, in the county of Middlesex, wherein G. H. was plaintiff, and I. J. was defendant, in which said action the said I. J. had before that time been arrested and held to bail for the sum of [100l.] And the jurors aforesaid, on their oath aforesaid, do further present, that whilst the said action was depending in the said court, that is to say, on the day and year aforesaid, C. D., late of the parish of , in the county of , labourer, came into the said court of our said lord the

(5.) Indictment for perjury in justifying bail in Court of K. B. (b).

(a) See a form, 2 Chit. C. L. 2nd ed. 326, a. (b) See a form, 2 Chit. C. L. 330, 332.

6. Forms.

Averment of materiality.

Conclusion.

(6.) The like in justifying as bail before a judge at chambers.

king, before the king himself, the said court then and still being at W. aforesaid, in the said county of M., and within the jurisdiction of the said Central Criminal Court, and then and there offered himself to be, and became one of the bail of the said I. J., in the action aforesaid, and thereupon the said C. D. was then and there in due manner sworn in and by the said court to make true answer to all such questions as should be demanded of him the said C. D., the said court then and there having sufficient and competent authority to administer such oath to the said C. D. And the jurors aforesaid, on their oath aforesaid, do further say, that the said C. D., so being sworn as aforesaid, then and there, to wit, on the day and year aforesaid, at Westminster aforesaid, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court, in the said court of our said lord the king, before the king himself, was interrogated concerning the circumstances and property of him the said C. D., and thereupon he the said C. D., not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, in order to impose upon the said last mentioned court, and to prevent the said last mentioned court from knowing the true circumstances and property of him the said C. D., and his then and former situation in life, on the day and year aforesaid, at Westminster aforesaid, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court, and before the said court of our said lord the king, before the king himself, upon his corporal oath aforesaid, did say and depose, in substance and to the effect following, that is to say, that [he the said C. D. was possessed of 500l. worth of wine] whereas in truth and in fact, at the time of taking of the said oath, the said C. D. was [not possessed of 500l. worth of wine]. And the jurors aforesaid, on their oath aforesaid, do further present, that on the occasion, and at the time of the said C. D. so swearing and deposing as aforesaid, it then and there became and was material for the purpose of allowing the said C. D. to become, or disallowing him from becoming such bail as aforesaid, to ascertain the truth of the matters so sworn and deposed to by him as aforesaid. And so the jurors aforesaid, on their oath aforesaid, do say, that the said C. D., on the said, &c., at, &c. aforesaid, and within the jurisdiction of the said Central Criminal Court, upon his oath aforesaid, falsely, wickedly, and by his own act and consent did commit wilful and corrupt perjury, to the great displeasure of Almighty God, to the evil example of all others, and against the peace of our said lord the king, his crown and dignity.

Central Criminal Court, to wit. The jurors for our lord the king upon their oath present, that to wit, on the day of , in the year of the reign of our lord the now king, William the Fourth, a certain action had been brought and was depending in the court of our lord the king, before his majesty's justices of the bench at Westminster, in the county of Middlesex, in which action one A. B. was plaintiff, and one B. C. then being in the custody of the warden of the Fleet was defendant. And the jurors aforesaid, upon their oath aforesaid, do further present that such proceedings were therein had, and that afterwards, to wit, on the day and year aforesaid, to wit, at London, in the parish of , the said B. C. by one J. T. his attorney in that behalf gave the said A. B. notice, that is to say, to Messrs. , his attornies in that behalf, that T. S. of H. in the county of , gentleman, and H. B. of L. in the county of , gentleman, would, on then instant, become bail for the said defendant in the said action, and would on the same day justify themselves before the Honourable Sir Joseph Littledale, knight, at his chambers in Serjeant's Inn, as good and sufficient bail for the said defendant, in the said cause: That the said T. S. was a housekeeper and had been resident at his said place of abode at H. aforesaid for the last six months, and that the said H. B. was a housekeeper and had been resident at his said place of abode at L. aforesaid for the last six months. And the jurors aforesaid upon their oath aforesaid do further present, that in pursuance of the said notice, and whilst the said action was depending as aforesaid, to wit, on the day of , at , the said T. S., late of , labourer, did come and appear in his own proper person before the said Sir Joseph Littledale before mentioned, then being one of the justices of the court of our said lord the king, before the king himself at Westminster, and duly authorized and empowered in that behalf according to the form of the statute in such case made and provided, at his chambers in Serjeant's Inn at London aforesaid, in the parish and ward aforesaid, and within the jurisdiction of the said Central Criminal Court, and then and there offered himself to become bail for the said B. C. in the said action, and then and

there before the said Sir J. L. aforesaid offered to justify himself as such bail; and in order that he might be and become such bail, and to justify himself as such, and to be allowed and approved of by the said court of our said lord the king of the Bench as such bail, the said T. S. was then and there on that occasion before the said Sir J. L. so being such justice as aforesaid, and duly authorized and empowered in that behalf, duly sworn and took his corporal oath upon the holy gospel of God, that he the said T. S. would true answer make to all such questions as should be demanded of him in that behalf, the said Sir J. L. then and there having sufficient power and authority to administer the said oath to the said T. S. in that behalf. And the jurors aforesaid upon their oath aforesaid do further present, that the said T. S. being so sworn as aforesaid, then and there before the said Sir J. L. upon the occasion aforesaid, was interrogated concerning the circumstances and property of the said T. S., and thereupon he the said T. S. not having the fear of God before his eyes, but being seduced by the instigation of the devil, did then and there before the said Sir J. L. upon his oath aforesaid, falsely, wickedly, wilfully, and corruptly answer and say, depose and swear in substance and effect, that he was possessed of property consisting of household furniture in his house at H. aforesaid, and that the same was worth 800l., and that the same had been paid for, and that he had never been in prison for debt; whereas in truth and in fact, the said T. S. at the time of his so deposing and swearing as aforesaid, was not possessed of any property consisting of household furniture in his house at H. aforesaid of the worth of 800l., nor was he then possessed of any property whatever of the worth of 800l. nor was he then possessed of any property whatever in any house at H. aforesaid, nor had he then any house whatever at H. aforesaid. And whereas in truth and in fact, the said T. S. at the time of his so deposing and swearing as aforesaid had been in prison for debt in this to wit, that to wit, on the day of he was in the custody of in the prison of and detained in such custody in the said prison, in a certain action before then brought and then pending in the court of by one against the said T. S. for the recovery of a certain debt, amounting to wit to £ , and for and in respect of which the said T. S. was so detained in custody as aforesaid. And the jurors aforesaid upon their oath aforesaid do further present, that on the occasion of the said T. S. so deposing and swearing as aforesaid, it became and was material for the purpose of allowing him to become, or disallowing him from becoming such bail as aforesaid, to ascertain the truth of the matters so by him deposed and sworn to as aforesaid. And so the jurors aforesaid upon their oath aforesaid do say, that the said T. S. on the said day of in the year of the reign aforesaid, at London aforesaid, in the parish and ward aforesaid, and within the jurisdiction of the said Central Criminal Court, before the said Sir J. L. duly authorized and empowered as aforesaid to administer the said oath to the said T. S., falsely, maliciously, and wickedly in manner and form aforesaid, did commit wilful and corrupt perjury, to the great displeasure of Almighty God, in contempt of our said lord the king and his laws, to the great damage of the said A. B., and against the peace of our said lord the king, his crown and dignity.

Central Criminal Court, to wit. The jurors for our lord the king upon their oath present, that heretofore, to wit, on the day of in the year of the reign of our lord the now king William the Fourth, in the court of our said lord the king, before the king himself at Westminster, a certain issue was joined in the said court of our said lord the king, before the king himself, in a certain action wherein one A. B. was the plaintiff, and C. D. and G. H. were defendants: and that afterwards, to wit, at the sitting of nisi prius, holden for the county of Middlesex, to wit, on the day of in the year of the reign aforesaid, at Westminster aforesaid, in the great hall of pleas there, commonly called Westminster Hall, and within the jurisdiction of the said Central Criminal Court, before the Right Hon. Thomas Lord Denman, then chief justice of our said lord the king, assigned to hold pleas in the said court of our said lord the king, before the king himself, by form of the statute and so forth, the same issue came on to be tried, and then and there was tried in due form of law by a jury of the said county of Middlesex, in that behalf duly taken and sworn between the said parties; and that, upon the trial of the said issue,

(7.) Indictment for perjury by a witness on a trial in K. B. at Westminster, at the sittings in term(a).

(a) See a form, 2 Chit. C. L. 351.

6. Forms.

one G. H., late of the parish of _____ in the county of _____ labourer, did then and there, to wit, on the day and year aforesaid, at the parish of St. Margaret, within the liberty of Westminster, in the said county of Middlesex, and within the jurisdiction of the said Central Criminal Court, appear and was produced as a witness for and on behalf of the said A. B., and that the said G. H. did then and there, before the said Thomas Lord Denman, the chief justice aforesaid, take his corporal oath, and was then and there duly sworn upon the Holy Gospel of God, that the evidence which he the said G. H. should give to the court and jury sworn between the parties aforesaid, touching the matters in question on the said issue, should be the truth, the whole truth, and nothing but the truth (he the said Thomas Lord Denman, the chief justice aforesaid, then and there having competent power and authority to administer the said oath to the said G. H. in that behalf); and then and there, upon the trial of the said issue, and for the purpose thereof, it became and was material to ascertain the truth of the matter hereafter alleged to have been sworn and deposed to by the said G. H.; and that thereupon the said G. H., being so produced and sworn as aforesaid, devising and wickedly intending to cause and procure a verdict to pass against the said C. D. and E. F. for the said A. B. on the trial of the said issue, and not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, did then and there, to wit, on the said, &c. at the parish aforesaid, in the liberty and county aforesaid, and within the jurisdiction of the said Central Criminal Court aforesaid, before the said Thomas Lord Denman, the chief justice aforesaid, falsely, maliciously, wilfully, wickedly, and corruptly, and by his own proper act and consent, depose, swear, and give evidence, amongst other things, to the jurors of the said jury so sworn between the said parties as aforesaid, in substance and to the effect as follows: that is to say, that [the said C. D. and E. F. both struck the said A. B. on the 14th January, A.D. 1836.] Whereas, in truth and in fact, [the said C. D. and E. F. did not, nor did either of them, ever strike the said A. B. on the 14th January, A.D. 1836, or at any other time.] And so the jurors first aforesaid, upon their oath aforesaid, do say, that the said G. H., at and upon the said trial of the said issue, and on the said, &c. aforesaid, at the parish of St. Margaret, within the liberty aforesaid, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court, before the said Thomas Lord Denman, the chief justice aforesaid, so as aforesaid having sufficient power and authority to administer the said oath to the said G. H. in that behalf, by his own proper act and consent, and of his own most wicked and corrupt mind, in manner and form aforesaid, did falsely, wickedly, and corruptly, upon his oath aforesaid, commit wilful and corrupt perjury, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown and dignity.

Conclusion.

(8) Indictment
for perjury upon
a trial at the
assizes.

_____ (venue) to wit. The jurors for our lord the king upon their oath present, that heretofore, to wit, at the assizes holden for the county of _____, on the day of _____, in the _____ year of the reign of our lord the now king William the Fourth, at _____, in the said county, before Sir A. B., Knight, one of the justices of our said lord the king, assigned to hold pleas in the court of our lord the king, before the king himself, and Sir J. B., Knight, one of the justices of our said lord the king, of the bench at Westminster, justices of our said lord the king, assigned to take the assizes in and for the said county of _____, a certain issue between one E. F. and one G. H., in a certain action of [trespass on the case.] wherein the said E. F. was plaintiff, and the said C. D. defendant, came on to be tried in due form of law, and was then and there tried by a jury of the said county in that behalf duly sworn and taken between the parties aforesaid: upon which said trial C. D., late of the parish of _____, in the county of _____, labourer, then and there appeared as a witness for and on behalf of the said C. D., the defendant in the action aforesaid, and was then and there at the said assizes duly sworn and took his corporal oath upon the Holy Gospel of God, before the said Sir A. B., Knight, so being such justice as aforesaid, that the evidence which he the said C. D. should give to the court there, and to the said jury so sworn as aforesaid, touching the matter then in question between the said parties, should be the truth, the whole truth, and nothing but the truth, (he, the said Sir A. B., Knight, so being such justice as aforesaid, then and there having sufficient and competent authority to administer the said oath to the said C. D. in that behalf.) And the jurors aforesaid, upon their oath aforesaid,

said, do further present, that at and upon the trial of the said issue so joined between the said parties as aforesaid, and for the purposes thereof, it then and there became and was material to ascertain the truth of the matters hereafter stated to have been sworn and deposed to by the said C. D. And the jurors first aforesaid, upon their oath aforesaid, do further present, that the said C. D., being so sworn as aforesaid, not having the fear of God before his eyes, nor regarding the laws of this realm, but being moved and seduced by the instigation of the devil, and contriving and intending to pervert the due course of law and justice, and unjustly to aggrieve the said E. F., the plaintiff in the said issue, and to deprive him of the benefit of his suit then in question, and to subject him to the payment of sundry heavy costs, charges, and expenses, then and there on the trial of the said issue, upon his oath aforesaid, falsely, corruptly, knowingly, wilfully, and maliciously, before the said jurors so sworn as aforesaid, and before the said Sir A. B., Knight, so being such justice as aforesaid, did depose and swear, in substance and to the effect following, that is to say, that [here set out the perjured matter sworn to, with the necessary innuendos:] whereas in truth and in fact, &c. [assign the perjury as usual]. And so the jurors aforesaid, upon their oath aforesaid, do say, &c. [Conclude as in form, No. 7, supra.]

Central Criminal Court, to wit. The jurors for our lord the king, upon their oath present, that before the making of the affidavit hereinafter mentioned, the goods and chattels of one C. D. had been levied and taken by the sheriff of the county of M., upon and by virtue of a certain writ of our said lord the king, called a fieri facias, before then sued and prosecuted out of the court of our said lord the king, [of the bench] at W., in the county of M., upon and by virtue of a certain judgment before then obtained in the said court, in a certain action at the suit of A. B. against him the said C. D., in the said court. And thereupon, afterwards, on the day of in the year of the reign of our lord the now king William the Fourth, at, &c. [venue], and within the jurisdiction of the said Central Criminal Court, by a certain rule and order of the said court then and there made, it was ordered [here set out the rule, which may be thus:] that the said A. B., upon notice of the said rule, to be given to his attorney or agent, should show cause to the said court on then next, why the judgment signed in the said cause, and the proceedings had thereon, should not be set aside, and that the sheriff of the said county of M. should retain in his hands the money levied by him under the said writ of execution issued in the said cause, until the further order of the said court. And the jurors aforesaid, on their oath aforesaid, do further present, that E. F., late of the parish of in the county of labourer, contriving and maliciously intending to aggrieve and injure the said A. B., and to prevent him from obtaining a rule of the said court of our said lord the king, [of the bench aforesaid,] in the said cause, for the setting aside the said judgment, and to discharge the said rule so obtained as aforesaid, and to impede and stop the course of public justice, heretofore, to wit, on the day of in the year of the reign aforesaid [date of making the false affidavit] contriving and intending as aforesaid, did come in his the said E. F.'s own proper person into the said court of our said lord the king, [of the bench aforesaid,] at Westminster aforesaid, in the county aforesaid, and within the jurisdiction of the said Criminal Court, and did then and there produce to the said court of the bench a certain affidavit in writing of the said E. F., to be exhibited to the said court, for the purpose of discharging the said rule so made and obtained as aforesaid; and the said E. F. was then and there before the same court of the bench duly sworn, and did take his corporal oath upon the Holy Gospel of God, concerning the truth of the matters contained in the said affidavit, (the same court then and there having a lawful and competent authority to administer the said oath to the said E. F., and to take and receive the said affidavit of the said E. F. in that behalf,) and that the said E. F., being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, did then and there, to wit, on the day and year last aforesaid, at Westminster aforesaid, in the county aforesaid, and within the jurisdiction of the said court, in and by his affidavit aforesaid, and by his oath aforesaid, before the said court of the bench, the said court then and there having such authority to administer the said oath as aforesaid, and to take and receive the said affidavit as aforesaid, falsely, corruptly, knowingly,

(9.) Indictment for perjury in affidavit sworn in court in opposition to a rule to show cause why a judgment should not be set aside (a).

(a) See form, 2 Chit. C. L. 374.

6. *Forms.*

Averment of materiality.

wilfully, and maliciously did depose and swear, in substance and effect as follows, that is to say, [set out the matter sworn to falsely, with innuendoes, or else merely state the substance; assign also the perjury.] And the jurors aforesaid, on their oath aforesaid, do further say, that on the occasion of the said E. F. so swearing and deposing as aforesaid, it then and there became and was material to ascertain the truth of the matters so sworn and deposed to by him as aforesaid. And so the jurors aforesaid, upon their oath aforesaid, do say, &c. [Conclude as usual, as in form, No. 7, ante, 179.]

(10.) Indictment for perjury in an answer sworn before a master in chancery (a).

*Central Criminal Court, to wit. The jurors of our lord the king upon their oath present, that A. B. late of the parish of _____ in the county of _____, labourer, heretofore, to wit, on the _____ day of _____ in the _____ year of the reign of our lord the now king William the Fourth, at Westminster, in the county of Middlesex, and within the jurisdiction of the said court, did exhibit his certain bill of complaint in writing, against E. F., in the High Court of Chancery of our said lord the king, (the same court then being held at W., in the said county of M.) which said bill was directed to the Right Hon. S. C., Baron of L., in the county palatine of Durham, then High Chancellor of Great Britain; and the said A. B., in and by his said bill of complaint, amongst other things, stated and alleged in substance and to the effect following, (that is to say) that, &c. [Here set out the matter of the bill to which the false part of the answer has any reference] as in and by the said bill of complaint of the said A. B., amongst other things, will more fully appear. And the jurors aforesaid, on their oath aforesaid, do further present, that the said E. F. afterwards, that is to say, on, &c. at the parish of [St. Andrew, Holborn,] in the county of [Middlesex,] and within the jurisdiction of the said Central Criminal Court, did come in his own proper person before G. H., Esq., then and there being one of the masters of the said Court of Chancery, and then and there did produce and exhibit to the said G. H. the answer in writing of the said E. F. to the said bill of complaint of the said A. B., and the said E. F. was then and there in due manner sworn, and did take his corporal oath upon the Holy Gospel of God, touching and concerning the matters contained in his said answer before the said G. H., (he, the said G. H. so then being such master as aforesaid, and then and there having sufficient and competent power and authority to administer an oath to the said E. F. in that behalf); and that the said E. F., being so sworn as aforesaid, did, upon his corporal oath concerning the matters contained in the said answer before the said G. H., Esq., then, as aforesaid, being one of the said masters of the said Court of Chancery, then and there swear, that so much of the said answer of the said E. F., so as aforesaid exhibited and produced, as related to his own acts and deeds, was true. And that the said E. F., being so sworn as aforesaid, and not having the fear of God before his eyes, but intending to aggrieve the said A. B., in and by the said answer before the said G. H., Esq., then and there being one of the said masters of the said Court of Chancery as aforesaid, and having such sufficient and competent authority as aforesaid, falsely, knowingly, wilfully, wickedly, maliciously, and corruptly, by his own act and consent, upon his oath aforesaid, did answer, swear, and affirm, in substance and effect as follows, that is to say, &c. [Here set out the substance of the perjured part of the answer,] as by the said answer of the said E. F., still remaining in the said Court of Chancery aforesaid, at Westminster aforesaid, in the county aforesaid, amongst other things, will more fully appear. Whereas in truth and in fact, [Assign the perjury as usual, according to the answer; then add the usual averment of materiality, as *supra*, (No. 9.) and conclude with the usual conclusion in perjury, from the words, "And so," &c., as ante, 176, No. 2.]*

(11.) Indictment for perjury in a cause in the ecclesiastical court (b).

_____ (venue) to wit. The jurors for our lord the king upon their oath present, that, heretofore, to wit, on the _____ day of _____, in the _____ year of the reign of our lord the now king William the Fourth, C. D., late of the parish of _____, in the county of _____, labourer, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and contriving and maliciously intending to injure one A. B., came in his own proper person, before E. F., then surrogate of the dean and chapter of R., and did then and

(a) See form, 2 Chit. C. L. 386.

(b) See other forms, 2 Chit. C. L. 421.

there, that is to say, on the day and year aforesaid, at, &c. [venue], as a witness in a certain suit, to wit, a suit of defamation then depending in the episcopal court of K., between the said A. B. against G. H., take his corporal oath upon the Holy Gospel of God, before the said E. F. (the said E. F. then and there having full power and authority to administer an oath to the said C. D. in that behalf,) and then and there, to wit, on the day and year aforesaid, at, &c. [venue], aforesaid, by his own act and consent, upon his said oath before the said E. F. (the said E. F. then and there having such power and authority to administer the said oath to the said E. F., as aforesaid,) falsely, wilfully, maliciously, and corruptly did say, depose, swear, and make deposition in writing, in substance and effect as follows, that is to say, that, &c. [Here state the substance of the matter sworn, with proper innuendoes,] as by the said deposition, (reference being thereto had,) will, amongst other things, more fully appear. Whereas, in truth and in fact, &c. [assign the perjury.] And so the aforesaid jurors, on their aforesaid oath, do say, that the aforesaid C. D., on the said &c. at, &c. aforesaid, before the aforesaid E. F., (then and there having full power and authority to administer the aforesaid oath to the said C. D., in the respect aforesaid,) by and through his own act and consent, in manner and form aforesaid, upon his aforesaid oath, did falsely, maliciously, wilfully, and corruptly commit wilful and corrupt perjury, to the great displeasure of Almighty God, in contempt of the laws of this realm, to the evil example of all others, to the great damage of the aforesaid A. B., and against the peace of our said lord the king, his crown and dignity.

—— (venue) to wit. The jurors for our lord the king upon their oath (12.) Indictment present, that C. D., late of the parish of B., in the county of _____, wickedly for perjury, upon and maliciously contriving and intending unjustly to aggrieve one J. J., and a complaint before him, the said J. J., to subject to the punishments, pains, and penalties by the laws of this realm provided for persons guilty of [felony and larceny,] a magistrate (a). (b) on the _____ day of _____, in the _____ year of the reign of our sovereign lord William the Fourth, at, &c., came in his own proper person before J. P., Esquire, then and yet being one of the justices of our said lord the king, assigned to keep the peace of our said lord the king, in and for the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county, and then and there before the said J. P., Esq., in due form of law was sworn and took his corporal oath upon the Holy Gospel of God (he the said J. P. then and there having a lawful and competent power and authority to administer the said oath to the said C. D. in that behalf) : and that the said C. D. being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there, upon his oath aforesaid, before the said J. P., Esq., (the said J. P. then and there having a lawful and competent power and authority to administer the said oath to the said C. D. in that behalf, as aforesaid,) upon a certain charge and information [of theft,] then and there made before the said J. P. in his said office of justice as aforesaid, falsely, corruptly, knowingly, wilfully, and maliciously, did say, depose, swear, and give information in writing (amongst other things,) in substance and to the effect following, that is to say, this informant (meaning the said C. D.) upon his oath, saith, [so proceeding to set out the defendant's information upon oath before J. P., with the necessary innuendoes ; whereas in truth and in fact, &c. [assign the perjury as usual, &c. ; then conclude]. And so the jurors aforesaid, upon their oath aforesaid, do say, &c., [as ante, p. 176, No. 2.]

Central Criminal Court, to wit. The jurors for our lord the king upon their (13.) Indictment oath present, that at the sitting at nisi prius, holden after Michaelmas term, in the for perjury in [6th] year of the reign of our lord the now king William the Fourth, at West- giving evidence on minster, in and for the county of Middlesex, in the great hall of pleas there, called trial at Westmin- Westminster Hall, according to the form of the statute in such case made and ster Hall, of an provided, before the Right Hon. Thomas Lord Denman, then chief justice of issue on an in- our said lord the king, assigned to hold pleas in the court of our said lord the king, dictment for per- jury (c).

(a) See form, *Arch. Forms, Crim. Pl.* 367. See various forms, 2 *Chit. C. L.* 431.

(b) If not a felony omit this.
(c) See a form, 2 *Chit. C. L.* 452.

6. Forms.

before the king himself, a certain issue in due manner joined in the said court of our said lord the king, before the king himself, between our said lord the king and one C. D., upon a certain indictment then depending against him, the said C. D., for wilful and corrupt perjury, came on to be tried, and was then and there, in due form of law, tried by a certain jury of the country, in due manner sworn and taken for that purpose, and that at and upon the trial of the said issue, one E. F., late of the parish of _____ in the county of _____ labourer, did then and there, to wit, on the _____ day of _____ in the _____ year of the reign of our lord the now king William the Fourth, at, &c. in the great hall of pleas there, and within the jurisdiction of the said Central Criminal Court, appear and was produced as a witness for and on the behalf of our said lord the king, against the said C. D., upon the trial of the said issue, and the said E. F. was then and there duly sworn, and did then and there take his corporal oath upon the Holy Gospel of God, as such witness as aforesaid, before the said Thomas Lord Denman, the chief justice aforesaid, that the evidence which he, the said E. F., should give to the court and jury sworn between our said lord the king and the said C. D. should be the truth, the whole truth, and nothing but the truth (the said Thomas Lord Denman, the chief justice aforesaid, then and there having competent authority to administer the said oath to the said E. F. in that behalf); and the said E. F. being so sworn as aforesaid, it then and there, upon the trial of the said issue, became and was material to ascertain the truth of the matters hereafter alleged to have been sworn and deposed to by the said E. F. And the jurors first aforesaid, upon their oath aforesaid, do further present, that the said E. F., not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and minding and corruptly and maliciously intending to injure and aggrieve the said C. D., and to cause and procure him to be convicted of the wilful and corrupt perjury whereof he then stood indicted as aforesaid, and to subject him to the pains and penalties by the laws of this realm inflicted on persons guilty of that crime, then and there, to wit, on the trial of the said issue, at the said sitting of nisi prius so holden as aforesaid, upon his oath aforesaid, before the said Thomas Lord Denman, the chief justice aforesaid, then and there having such competent authority to administer the said oath as aforesaid, falsely, wickedly, maliciously, knowingly, wilfully, and corruptly did say, depose, swear, and give evidence, amongst other things, in substance and to the effect following, that is to say, that, &c. [Here set out the substance of the false evidence,] whereas in truth and in fact, &c. [Here assign the perjury.] And so the jurors first aforesaid, on their oath aforesaid, do say, that the said E. F. then and there, to wit, at the said sitting of nisi prius holden as aforesaid, on, &c., at Westminster aforesaid, and within the jurisdiction of the said Central Criminal Court, in the great hall of pleas there, called Westminster Hall, at and upon the trial of the said issue, in open court, upon his oath aforesaid, before the said Thomas Lord Denman, the chief justice aforesaid, then and there having such competent power to administer the said oath as aforesaid, in manner and form aforesaid, falsely, &c. [And conclude as usual, ante, p. 176, form No. 2.]

(14.) Commitment for subornation of perjury.

Commencement as usual, ante, 175, form No. 1.] on the _____ day of _____, A. D. _____, at the parish of _____, in the said county, unlawfully, corruptly, wickedly, and maliciously, did solicit, suborn, and instigate one C. D. to commit wilful and corrupt perjury, in the testimony given by the said C. D. as a witness, &c. [as in the form, ante, p. 175, No. 1.] And you, the said keeper, &c. [And conclude as usual, ante, p. 175, form No. 1.]

(15.) Indictment for subornation of perjury (a).

Central Criminal Court, to wit. The jurors for our lord the king upon their oath present, that C. D., late of the parish of _____, in the county of _____, labourer, wickedly and maliciously contriving and intending to injure one A. B., then being in the custody of the Marshal of the Marshalsea of our said lord the king, before the king himself, at the suit of one J. J., and to cause the said A. B. to be kept and detained in custody of the said marshal as a prisoner, by and at the suit of the said C. D., for a large sum of money, to wit, the sum of [35*l.*], by issuing and proceeding on a writ of detention against him, the said A. B., as a prisoner, in such custody as aforesaid, according to the course and practice of the said court of our said lord the king, before the king himself, on the [29*th*] day of _____

(a) See a form, Arch. C. L. 9; Jervis, 6 ed. 491.

[June,] in the [6th] year of the reign of our Sovereign Lord the now King William the Fourth, at Westminster, in the county of Middlesex, and within the jurisdiction of the said Central Criminal Court, did falsely, corruptly, knowingly, wilfully, and wickedly, solicit, suborn, and procure one H. G. to go into the court of our said lord the king, before the king himself, the said court then and still being holden at Westminster, in the county aforesaid, and to produce to the said court a certain affidavit in writing of the said H. G., to be exhibited to the said court, for the purpose last aforesaid, and in and by the said affidavit falsely to swear and depose, to and before the said court, that the said A. B. was justly and truly indebted unto the said C. D. in the sum of [35l. and upwards, on a bill of exchange drawn by the said A. B. upon and accepted by one P. G., and payable to the order of the said A. B., at a certain day then past, and by the said A. B. indorsed to one J. S., and by the said J. S. indorsed to the said C. D.] And the jurors aforesaid, upon their oath aforesaid, do further present, that in consequence and by the means, encouragement, and effect of the said wicked and corrupt subornation and procurement of the said C. D., he, the said H. G., afterwards, to wit, on the said [29th] day of [June,] in the year aforesaid, did go in his proper person into the said court of our said lord the king, before the king himself, the said court then and still being holden at Westminster, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court, and did then and there produce to the said court the said affidavit in writing of the said H. G., to be exhibited to the said court, for the purpose aforesaid; and the said H. G. then and there was sworn, and took his corporal oath, before the said court, on the Holy Gospel of God, the said court then and there having a lawful and competent authority to take and receive the said affidavit and administer the said oath to the said H. G. in that behalf; and the said H. G. being so sworn as aforesaid, by the means and in consequence of the said wicked solicitation, subornation, and procurement of the said C. D., for the purpose aforesaid, did then and there, upon his oath aforesaid, before the said court as aforesaid, falsely, wickedly, wilfully, and corruptly, depose and swear in and by the said affidavit in writing, in substance and to the effect following, that is to say, that the said A. B. then was justly and truly indebted unto the said C. D. in the sum of [35l. and upwards, on a bill of exchange, drawn by the said A. B. upon and accepted by one B. G., and payable to the order of the said A. B., at a certain day then past, and by the said A. B. indorsed to one J. S., and by the said J. S. indorsed to the said C. D.]; whereas in truth and in fact the said A. B. was not, at the time of making the said affidavit, by the said H. G., as aforesaid, indebted to the said C. D. in the sum of [35l. and upwards, in the said affidavit mentioned, on the said bill of exchange drawn by the said A. B. upon and accepted by one B. G., and indorsed to the said J. S., and by him indorsed to the said C. D.,] or on any other bill of exchange whatever. And whereas, in truth and in fact, the said A. B. was not, at the time of making the affidavit as aforesaid, or at any other time, indebted to the said C. D. in the said sum of [35l.] on any account whatever; and whereas, in truth and in fact, he, the said A. B., did not, at the time of making of the affidavit as aforesaid, owe to the said C. D. the said sum of [35l.,] or any part thereof, or any other sum of money whatsoever, which he, the said C. D., at the time of soliciting, suborning, and procuring the said H. G. wilfully, corruptly, and falsely to swear, as aforesaid, well knew, to wit, at Westminster aforesaid, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said C. D., on the said 29th day of June aforesaid, at Westminster aforesaid, in the county aforesaid, and within the jurisdiction of the said Central Criminal Court, did falsely, corruptly, knowingly, wilfully, and wickedly, suborn and procure the said H. G. to commit wilful and corrupt perjury, in and by his oath aforesaid, taken in the open court of our said lord the king, before the king himself, the same court then and there having lawful and competent authority to administer such oath to the said H. G. in that behalf, to the great displeasure of Almighty God, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown and dignity.

Petition.

Tumultuous petitioning.

BY the 13 Car. II. c. 5, no person shall solicit above twenty hands to any petition to the king, or either house of Parliament, for alteration of matters established by law in church or state, unless the matter thereof hath been consented to by three or more justices of the county, or by the major part of the grand jury at the assizes or sessions; or, if arising in London, by the lord mayor, aldermen, and common council; nor shall present any such petition, accompanied with more than ten persons, on pain of a sum not exceeding 100*l.* and three months' imprisonment, on conviction at the assizes or sessions in six months, and proved by two witnesses.

But this shall not extend to debar any persons (not above ten in number) to present any complaint to any member of Parliament after his election, and during the continuance of Parliament, or to the king for any remedy to be thereupon had; nor to any address to the king by the Parliament. See 4 *Blac. Com.* 147; "*Riot*," *post*.

Petit Jury. See "*Jurors*," Vol. III.

Petit Larceny. See "*Larceny*," Vol. II.

Petit Treason. See "*Treason*," *post*.

Pewter, and other Metals.

DURING the reigns of Henry VII. and VIII., and Edw. VI., five different statutes (19 Hen. VII. c. 6; 4 Hen. VIII. c. 7; 25 Hen. VIII. c. 9; 33 Hen. VIII. c. 4; 2 & 3 Edw. VI. c. 37) were passed for the purpose of preventing as well the importation of manufactured goods of tin or pewter, as the exportation of any brass, copper, or other metals (tin and pewter only excepted), in an unmanufactured state; as also to prevent any goods being manufactured within this kingdom of tin, pewter, or brass, of inferior quality to what they ought to be, on pain of forfeiting half to the king, and half to the finder. 2 *Dick.* 419.

By the 19 Hen. VII. c. 6, the master and wardens of the craft of Pewterers, and, where there are none such, the head and governors of the city or borough, might appoint searchers; and the justices at Michaelmas sessions were to appoint two persons, having experience therein, to search within the county; and of all such unlawful pewter or brass as they should find, half went to the king, and half to the searchers.

In default of the master and wardens not searching, any person, having sufficient knowledge in the said occupation, by oversight of the mayor or other head officer of the cities or boroughs, might search. *Id.*

But now, by 3 Geo. IV. c. 41, s. 2, 4, these several statutes are repealed.

Personating of Soldiers, &c., see "*Military Law*," Vol. III. Of Seamen, &c., *post*, "*Seamen*." Of Bail, see "*Bail*," Vol. I. See also "*Cheats*," Vol. I. "*Forgery*," Vol. II.

Pheasants. See "*Game*," Vol. II.

Physicians, Surgeons, and Apothecaries.

No person within London, or seven miles thereof, shall practise as a physician or surgeon without licence from the bishop of London, or dean of St. Paul's; who are to call to their assistance four doctors of physic, on examination of the persons, before granted; and in the country, without licence from the bishop of the diocese, on pain of forfeiting 5*l.* a month. (Stat. 3 Hen. VIII., c. 11.) Physicians.

The charter for incorporating the College of Physicians is confirmed: they have power to choose a president, and have perpetual succession, a common seal, ability to purchase lands, &c. Eight of the chiefs of the college are to be called elects, who from among themselves shall choose a president yearly; and if any practise physic in the said city, or within seven miles of it, without licence of the college, under their seal, he shall forfeit 5*l.* Also persons practising physic in other parts of England are to have letters testimonial from the president and three elects, unless they be graduate physicians of Oxford or Cambridge, &c. (14 & 15 Hen. VIII., c. 5, confirmed and enlarged by 1 Mary, st. 2, c. 9.)

The 32 Hen. VIII., c. 40, ordains that four physicians (called censors) shall be yearly chosen by the college, to search apothecaries' wares, and have an oath given them for that purpose by the president: apothecaries denying them entrance into their houses, &c., incur a forfeiture of 5*l.*, and physicians refusing to make the search, are liable to a penalty of 40*s.*; and every member of the College of Physicians is authorised to practise surgery.

In the case of Dr. Bonham, 7 Jac. I., is shown the power of the College of Physicians in punishing persons for practising physic without licence. They imprisoned the doctor for practising without licence; but it was adjudged that they could not lawfully do it; for in such case they had no power by the statute to commit, but they ought to sue for the penalty of 5*l.* per month, *qui tam*, &c. But in case of mal-practice, the censors have power to commit, for they may, in such case, fine and imprison by their charter, and they are judges of record, and not liable to an action for what they do by virtue of their judicial power. (8 Rep. 107; Carth. 494.)

One who has taken his degree of doctor of physic in either of the universities, may not practise in London, and within seven miles of the same, without licence from the College of Physicians, by reason of the charter of incorporation, confirmed by 14 & 15 Hen. VIII., c. 5, penned in very strong and negative words. As to the testimonials granted by the universities on a person's taking the doctor's degree, these may have the nature of a recommendation, and give a man a fair reputation, but confer no right, consequently those statutes which have confirmed the privileges of the universities would revive or confirm nothing but the reputation that this testimonial might give such graduates; and as to the last clause of this statute, that "none shall practise in the country without a licence from the president and three elects, unless he be a graduate of one of the universities," all the inference from that would be, that possibly two licences may be necessary where a person is not a graduate. In the case of Dr. Levet, lord chief justice Holt did not think this question worth being found specially. The College of Physicians, without doubt, are more competent judges of the qualifications of a physician than the universities; and there may be many reasons for taking particular care of those who practise physic in London. (10 Mod. 353, 354.)

The statute of 14 & 15 Hen. VIII., c. 5, appointing and regulating the College of Physicians, is a public act. (*Physicians' College v. Harrison*, M. & M. 191.)

A doctor of physic, who has been licensed by the college to practise physic in London, and within seven miles, cannot claim, as a matter of right, to

Physicians.

be examined by the college, in order to his being admitted a fellow of the college. (*Rex v. Physicians' College*, 7 T. R. 282.)

A mandamus will not lie to the College of Physicians, commanding them to examine a doctor of physic who has been licensed, in order to his being admitted a fellow of the college. (*Id.*)

The college, who have power by their charter (confirmed by act of parliament) to make bye-laws, have made bye-laws respecting the qualifications of persons to be admitted into their college; it is ordained by them that no person shall be admitted into the class of candidates before admission into the college, unless he has taken a degree of M.D. at Oxford, Cambridge, or Dublin, except in two cases; in one of those cases, the president may propose, once in every other year, a doctor of physic, of a certain standing, and if he be approved by the college, he may be admitted a fellow; in the other, any fellow may propose a doctor of physic, of a certain age or standing, and, if approved at certain meetings, he may be admitted a fellow.—Ruled, that these were reasonable bye-laws. (*Id.*)

Candidates, to be admitted of the college, are to be examined by the *comitia majora*, and elected by them before they can claim to be admitted. (*Rex v. Askew*, 4 Burr. 2186.)

It is questionable whether the licentiates in physic have in general a right to demand admission into the college. (*Rex v. Physicians' College*, 5 Burr. 2740.)

A doctor, who is not a member, has no right to inspect the books of the College of Physicians. (*West v. Physicians' College*, 1 Wils. 240; 5 Mod. 395.)

An apothecary, and freeman of London, attended a patient, and made up and administered proper medicines to him, but without having a licence from the faculty, or the direction of a physician, or demanding or taking any fee for his advice:—it was held, that this did not amount to a practising of physic within the meaning of the statute, 14 & 15 Hen. VIII., c. 5. (*Rose v. Physicians' College*, in error, 5 Bro. P. C. 553.)

It is clear that a physician cannot maintain an action for his fees; for, like those of a barrister, the fee is a *quiddam honorarium*. (*Chorley v. Bolcot*, 4 T. R. 317.)

If a medical practitioner write prescriptions, and pass himself off as a physician, although he have no diploma, and no right to assume that character, he cannot maintain an action for fees as a surgeon. (*Lipscombe v. Holmes*, 2 Camp. 441.)

Whether physicians are exempted from offices.

By the 32 Hen. VIII., c. 40, s. 1, the president of the commonalty and fellowship of the faculty of physic in London, and the commons and fellows of the same, shall be discharged of watch and ward there, and shall not be chosen constable or any other officer.

Yet it seems to have been holden, that the equity of this act doth not extend to other physicians not mentioned in it; perhaps for this reason, because physicians have no such special custom for their discharge as surgeons are said to have. (2 Hawk. c. 10, s. 44.)

And it seemeth that a practising physician, being chosen constable in pursuance of a custom in respect of his lands in a town, has no remedy for his discharge; for that there are no precedents of this kind, and his calling is private: yet, if he be chosen constable of a town, which hath sufficient persons beside to execute this office, and no special custom concerning it, perhaps he may be relieved by the King's Bench. (2 Hawk. c. 10, s. 41.)

By the 6 Geo. IV., c. 50, s. 2, members and licentiates of the College of Physicians, in London, are exempt from serving on juries. See "*Jurors*," Vol. III.

Opinions evidence.

As to the opinions of medical men being evidence, see "*Evidence*," Vol. II.

Confidential communications.

As to what communications are privileged from being disclosed in evidence, see "*Evidence*," Vol. II.

Killing a patient.

As to how far a party killing another, by bad medical treatment, may be guilty of murder or manslaughter, see "*Homicide*," Vol. III.

Surgeons.]—It is enacted by the statute 3 Hen. VIII., c. 11, s. 1, that no one shall act as a surgeon (*i. e.* for profit; see 34 & 35 Hen. VIII., c. 8, s. 3; Com. Dig. tit. Physicians (D.)); also, as to the College of Surgeons, &c. 18 Geo. II., c. 15) within the city of London, or seven miles around, unless he be examined and licensed by the College of Surgeons, under the penalty of 5*l.* per month. Upon this statute, Lord Ellenborough appeared to have been of opinion (*Gremare v. Le Clerc Bois Valon*, 2 *Campb.* 144), that as it contains no distinct prohibitory clause, a person may, though unlicensed, maintain an action for business done by him as a surgeon within the limits. (See, however, *Beasley v. Bignold*, 5 *B. & Al.* 335; *Edgar v. Hunter*, *Holt*, *N. P. R.* 528.) His lordship thought, that at any rate it was incumbent upon the defendant in such action to prove that the plaintiff was not regularly licensed according to the statute. (*Gremare v. Le Clerc Bois Valon*, 2 *Campb.* 146; *sed vide Blogg v. Pinkers*, 1 *R. & M.* 125.)

If a surgeon furnish a bill to his patient, leaving a blank for his charge for attendance, and the patient pay a certain sum on that account, the surgeon, as he made no specific charge, is bound by the sum so paid, and can recover no more. (*Tuson v. Batting*, 3 *Esp. R.* 192.)

In *Allison v. Haydon*, 4 *Bingh.* 619; 1 *M. & P.* 588; 3 *C. & P.* 246, *S. C.*, it was held, that a surgeon, *who is not an apothecary*, cannot sue for medicine furnished by him during his attendance on a patient labouring under *typhus fever*, which cannot be considered a surgical case. The being a member of, and having a certificate from, the College of Surgeons, does not qualify the party to act as an apothecary in a case strictly within the sole province of an apothecary. Best, *C. J.*, said, "In the infancy of medical science, surgeons were mere operators; and by the statute 32 Hen. VIII., c. 42, the barbers and surgeons of *London* were incorporated together, and made one company; but when the two corporations were made separate and distinct by statute 18 Geo. II., c. 15, by which examiners were appointed to examine and admit surgeons, &c., the latter became a more honourable profession, and moved in a higher grade. The province of a surgeon has properly been said to be confined to the reduction and cure of fractures and other injuries affecting the limbs, or such external ailments as may require the operation of the knife, and it cannot be extended to internal complaints, or local diseases. Whatever medicine may be necessary for the purpose of removing a complaint which it is the duty of a surgeon to attend to and cure, he might perhaps be allowed to recover for, but he is not entitled to recover unless the medicine he administered be clearly ancillary to his duty as a surgeon." (See *Chit. jun. on Contracts*, 437.)

Exemptions from Offices, &c.]—By the 6 & 7 Will. III. c. 4, s. 2, apothecaries within London and seven miles thereof, and also apothecaries in any other place who have served seven years' apprenticeship, shall be exempted from the office of constable, scavenger, overseer of the poor, and all other parish, ward, and leet offices.

Apothecaries
and surgeons
exempted from
offices.

See also, as to surgeons and apothecaries being exempt from juries, the 6 Geo. IV. c. 50, s. 2 (*ante*, "*Jurors*," Vol. III.), which repeals the 6 & 7 Will. III. c. 4, and 5 Hen. VIII. c. 6, as to jurors.

By the 5 Hen. VIII. c. 6, surgeons shall be discharged of the constableness, watch, and all manner of office bearing any armour.

And, by the 18 Geo. II. c. 15, s. 10, all freemen of the Surgeons' Company in London shall be exempted from the office of constable, scavenger, overseer of the poor, and other parish, ward, and leet offices, and from serving on juries and inquests.

Mr. Hawkins, speaking of the former of these statutes, says, it seems by the equity thereof, and the ancient custom of the realm, all surgeons have been allowed the like privilege: that is, whether in London or elsewhere. (2 *Hawk.* c. 10, s. 43.)

Chemists and Druggists.]—Chemists and druggists are confined, in the due exercise of their business, to the preparing, compounding, dispensing, and

Chemists and
druggists.

Chemists and
Druggists.

vending drugs and medicines, and medicinal compounds. (See 55 Geo. III. c. 194, s. 28, *post.* 193.) They cannot for profit give advice, or attend a patient, or administer medicines, they can only recover for the value of the medicines, if not qualified to act as apothecaries or surgeons. (See *Allison v. Haydon*, 1 M. & P. 592, 593, *per Best, C. J., and Park, J.*)

Charter by Jac. I.
to Apothecaries'
Company,

confirmed, except
as altered by this
act.

Master, wardens,
&c., empowered
to enter shops of
apothecaries, &c.,
and examine
drugs, &c.

Penalties.

Searching for
drugs.

Penalty on apo-
thecaries refusing
to compound, or
unfaithfully com-
pounding, medi-
cines prescribed.

Apothecaries.]—The 55 Geo. III. c. 194, “for better regulating the practice of Apothecaries throughout England and Wales,” s. 1, recites the first charter of James I. to the Apothecaries’ Company, and that some of the clauses and provisions contained in the said charter, so far as the same regard the said society of Apothecaries, have been found inadequate for the purposes thereby intended; and enacts, that the said charter of James I., and all the powers, penalties, and regulations, &c., therein contained (except such parts thereof as are hereby altered, varied, or repealed), shall be, and the same is, hereby declared to be in full force, &c.

By sect. 2, so much of recited charter as directs the master and wardens, &c., to enter the shops of apothecaries, and to examine their medicines, &c., and to impose penalties, is repealed.

Sect. 3. And, in lieu thereof, the master, wardens, and society, of apothecaries, and their successors, or any of the assistants, or persons properly qualified [viz. s. 4, for London and 30 miles around, being a member of the Society of Apothecaries of at least 10 years’ standing, and all other parts of England and Wales, an apothecary in actual practice for at least ten years], to be by the master and wardens nominated, not being fewer in number than two persons, may at all reasonable times, in the day-time, as often as to the said masters and wardens it shall seem expedient, enter into any shop of any apothecary in England and Wales, and search, survey, prove, and determine, if the medicines, simple or compound, wares, drugs, or things whatsoever therein contained, and belonging to the art or mystery of apothecaries, be wholesome, meet, and fit for the cure, health, and ease, of his majesty’s subjects; and all such medicines, &c., which they shall find false, unlawful, deceitful, stale, unwholesome, corrupt, pernicious, or hurtful, shall and may burn, or otherwise destroy; and also shall report to the master, wardens, and assistants of the said society, the name of such person as shall be found to have the same in possession; and the said master, wardens, and assistants, shall and may impose and levy the following fines and penalties upon every person whose names shall be so reported to them as hereinafter mentioned: for the first offence, 5*l.*; for the second offence, 10*l.*; and for the third and every other offence, 20*l.*

And, by the 1 Mar. Sess. II. c. 9, s. 6, all justices, mayors, sheriffs, bailiffs, constables, and other officers, in London, shall assist the president of the College of Physicians, and persons by them authorised, in searching for faulty apothecary wares.

By the 55 Geo. III. c. 194, s. 5. And whereas it is the duty (*a*) of every person, using or exercising the art and mystery of an *apothecary*, to prepare with exactness and to dispense such medicines as may be directed for the sick by any physician lawfully licensed to practise physic by the president and commonalty of the faculty of physic in London, or by either of the two universities of Oxford or Cambridge; therefore, for the further protection, security, and benefit of his majesty’s subjects, and for the better regulation of the practice of physic throughout England and Wales, it is enacted, that if any person using or exercising the art and mystery of an apothecary, shall at any time knowingly, wilfully, and contumaciously, refuse to make, mix, compound, prepare, give, apply, or administer, or any way to sell, set on sale, put forth, or put to sale, to any person or persons whatever, any medicines, compound medicines, or medicinale compositions, or shall de-

(*a*) This preamble must not be supposed to recite all the duties of an apothecary, but only those referred to by

the penal enactments which follow. (Per *Parke, J.*, 4 B. & Ad. 627.)

liberately or negligently, falsely, unfaithfully, fraudulently, or unduly make, 55 Geo. 3, c. 194.
mix, compound, prepare, give, apply, or administer, or any way sell, set on sale, put forth, or put to sale to any person or persons whatever, any medicines, compound medicines, or medicinal compositions, as directed by any prescription, order, or receipt, signed with the initials, in his own handwriting, of any physician so lawfully licensed to practise physic, such person or persons so offending shall, upon complaint made within twenty-one days by such physician, and upon conviction of such offence before any of his majesty's justices of the peace, unless such offender can show some satisfactory reason, excuse, or justification, in this behalf, forfeit, for the first offence, the sum of 5*l.*; for the second offence, the sum of 10*l.*; and for the third offence he shall forfeit his certificate, and be rendered incapable in future of using or exercising the art and mystery of an apothecary, and be liable to the penalty inflicted by this act upon all who practise as such without a certificate, in the same manner as if such party so convicted had never been furnished with a certificate enabling him to practise as an apothecary; and such offender, so deprived of his certificate, shall be rendered and deemed incapable in future of receiving and holding any fresh certificate, unless the said party so applying for a renewal of his certificate shall faithfully promise and undertake, and give good and sufficient security, that he will not in future be guilty of the like offence.

Sect. 14. And, to prevent any person from practising as an apothecary, without being properly qualified to practise as such, it is enacted, that, after the 1st day of August, 1815, it shall not be lawful for any person (except persons already in practice as such) to practise as an apothecary in any part of England or Wales, unless he shall have been examined by the court of examiners, or the major part of them, and have received a certificate of his being duly qualified to practise as such from the said court of examiners, or the major part of them (a), who are hereby authorized and required to examine all persons applying to them, for the purpose of ascertaining the skill and abilities of such persons in the science and practice of medicine, and their fitness and qualification to practise as an apothecary; and the said court of examiners, or the major part of them, are hereby empowered either to reject such person, or to grant a certificate of such examination, and of his qualification to practise as an apothecary, as aforesaid: provided always that no person shall be admitted to such examination until he shall have attained the full age of 21 years.

Persons not to practise as apothecaries, &c., without due examination.

Sect. 15. No person shall be admitted to any such examination for a certificate to practise as an apothecary, unless he shall have served an apprenticeship of not less than five years to an apothecary, and unless he shall produce testimonials, to the satisfaction of the court of examiners, of a sufficient medical education, and of a good moral conduct.

Applicants for examination to produce testimonials.

Sect. 20. If any person (except such as are then actually practising as such) shall, after the 1st August, 1815, act or practise as an apothecary in any part of England or Wales, without having obtained such certificate, as aforesaid, every person so offending shall, for every such offence, forfeit the sum of 20*l.*; and if any person (except such as are then *acting as such*, and excepting persons who have actually served an apprenticeship, as aforesaid) shall, after the said 1st of August, 1815, act as an assistant to an apothecary to compound and dispense medicines, without having obtained such certificate, as aforesaid, every person so offending shall, for every such offence, forfeit the sum of 5*l.* (a).

Penalty for acting without a certificate (a).

(a) In an action against a person for practising as an apothecary without a certificate, the proof of the certificate, or the exception as to practising before the 1st of August, 1815, rests on defendant. (*Apoth. Comp. v. Bently, R. & M., C. N. P. 159; 1 C. & P. 538; 5 B. & Ald. 949, S. C.*)

Practising as an apothecary, is the mixing up and preparing medicines prescribed either by a physician or by any other person, or by the apothecary himself. The acting as a surgeon or accoucheur is not practising as an apothecary; nor would the party supplying medicine to a friend be so. But if the party sought

55 Geo. 3, c. 194.

Apothecaries not to recover charges, unless duly licensed.

Sect. 21. And no apothecary shall be allowed to recover any charges claimed by him in any court of law, unless he shall prove on the trial that he was in practice as an apothecary prior to or on the 1st of August, 1815, or that he has obtained a certificate to practise as an apothecary from the said master, wardens, and society of apothecaries, as aforesaid (a).

his living by practising as an apothecary that is sufficient, as it is not essential that he should have gained his whole livelihood by his practice. (*Woodward v. Ball*, 6 Car. & P. 577.)

If an apprentice to an apothecary live in a house of his master's, at a distance from his master's residence, and attend patients there for his master, this is a practising as an apothecary within the 20th sect. of the above act, though his master occasionally comes to the place, and is consulted by the apprentice as to the patients. (*Apothecaries' Company v. Greenwood*, 2 B. & Ad. 708.)

A person who advises patients, and compounds and sells the medicines recommended by himself, but does not make up physicians' prescriptions, is liable to the penalties of the above act, 55 Geo. III., for practising as an apothecary without a certificate. (*Apoth. Comp. v. Allen*, 4 B. & Ad. 625; 1 Nev. & Man. 413.)

Practising while under the service of another, though for the party's own benefit, is not a practising within the act. (*Brown v. Robinson*, 1 C. & P. 264.) And the apothecary should show instances of compounding and making up prescriptions: merely attending local complaints is not sufficient. (*Thompson v. Lewis*, M. & M., C. N. P. 255; 3 C. & P. 483, S. C.)

In an action for a libel on the plaintiff, who had served upwards of three years as house apothecary at a public infirmary, before the 55 Geo. III. c. 194, it was held that such service was sufficient to qualify him as an apothecary, without proof of apprenticeship, or production of a certificate, in conformity with the statute. (*Wogan v. Somerville*, 1 Moore, 102; 7 Taunt. 401, S. C.)

But where it appeared that the defendant, who was sued for the penalty, never had or could have made up physicians' prescriptions prior to the 1st Aug. 1815, this was held to be cogent evidence to be left to the jury, and that they did right in finding that he had not practised as an apothecary, although he had administered medicines to the patients before that period. (*Apoth. Comp. v. Warburton*, 3 B. & Ald. 40.)

Nor is it sufficient, to bring a party within the exception, to show that, previously to and on the 12th of July, 1815, (when the act received the royal assent), he was practising as an apothecary; but

he must show that he was so practising on the 1st of August, 1815. (*Apoth. Comp. v. Roby*, 5 B. & Ald. 949; 1 Dowl. & Ry. 564.)

In an action to recover the amount of an apothecary's bill, the plaintiff who, under this act, proves a certificate from the Society of Apothecaries, need not also prove an apprenticeship served. (*Sherwin v. Smith*, 1 Bing. 204; 8 Moore, 30, S. C.)

A person authorized to practise as a physician by diploma from a Scotch university, is not thereby exempted from the penalty imposed by 55 Geo. III. c. 194, s. 20, for practising as an apothecary in England or Wales without the certificate required by that act. (*Apoth. Comp. v. Collins*, 4 B. & Ad. 604; 5 Car. & P. 519; 1 N. & M. 401, S. C.)

(a) If, in an action on an apothecary's bill, the plaintiff fail to prove himself qualified within the act, he cannot recover even for the phials in which the medicines were supplied. (*Steed v. Henley*, 1 C. & P. 574.)

In an action by a payee of a promissory note, expressed to be "in consideration of the plaintiff's care and medical attendance bestowed on the maker," it was held that the plaintiff, to recover, must bring himself within section 21. (*Blogg v. Pinkers*, R. & M., C. N. P. 125.)

A general certificate of qualification to practise, without limitation as to time or place, is sufficient to enable an apothecary to sue for medicines, &c., furnished to patients in London; though the receipt indorsed on the certificate is for four guineas, and paid after the commencement of the action. (*Chadwick v. Bunning*, R. & M., C. N. P. 306.)

An apothecary may charge for attendance, or for the medicines he sends, but he cannot charge for both. (*Towne v. Lady Gresley*, 3 C. & P. 581.) A surgeon may recover for attendance. (*Poucher v. Norman*, 3 B. & C. 745; 5 D. & R. 648, S. C.) A surgeon and apothecary may recover for attendance as well as medicines. (*Handey v. Houson*, 4 C. & P. 110.)

A member of the Royal College of Surgeons cannot sue for medicines furnished, unless he be also certificated by the Apothecaries' Company. (*Allison v. Haydon*, 1 M. & P. 588; 3 C. & P. 246, S. C.)

It seems, a surgeon may recover for

Sect. 24. All sums of money which shall arise from the granting of certificates of examination shall be appropriated and disposed off by the said master, wardens, and society of apothecaries, in such manner as they shall, from time to time, direct and deem most expedient. 55 Geo. 3, c. 194.

Sect. 25. All sums arising from conviction and recovery of penalties for offences committed against this act, shall be applied and disposed of in manner following: viz. one half to the informer, and one half thereof to the said master, wardens, and society of apothecaries, to be disposed of in such manner as they shall deem most expedient. Application of monies arising from certificates.
Application of monies arising from penalties.

Sect. 26. All penalties and forfeitures by this act imposed (the manner of levying and recovering whereof is not otherwise directed) shall, if they exceed the sum of 5*l.*, be recovered by action, in the name of the master, wardens, and society of apothecaries, of the city of London, in any of his majesty's courts of record in England or Wales, &c.; and, if such penalty or forfeiture shall amount to less than the sum of 5*l.*, the same shall be levied and recovered by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any justice of the peace, acting for any county, city, town, or place where the offence shall be committed (which warrant such justice is hereby empowered and required to grant, upon the confession of the party, or upon the evidence of any credible witness upon oath, and which oath such justice is hereby empowered to administer), and the overplus (if any) of the money arising by such distress and sale shall be returned to the owner of such goods and chattels, after deducting the costs and charges of making, keeping, and selling the distress; and, in case sufficient distress shall not be found, or such forfeitures and penalties shall not be paid forthwith, it shall be lawful for such justice, and he is hereby authorised and required, by warrant under his hand and seal, to cause the offender to be committed to the common gaol for the county, city, town, or place where the offence shall be committed, there to remain without bail or mainprize for any time not exceeding one calendar month, unless such penalties, and forfeitures, and costs, shall be sooner fully paid and satisfied. Recovery of fines and penalties.

Sect. 27. And where any distress shall be made for any sum of money to be levied by virtue of this act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the notice or information, summons, conviction, warrant, or distress, or other proceeding, relating thereto; nor shall the party distraining be deemed a trespasser *ab initio*, on account of any irregularity which shall be afterwards done by the party so distraining; but the person aggrieved by such irregularity may recover full satisfaction for the special damage, in an action upon the case. Distress not unlawful for want of form.
Party not a trespasser *ab initio*.

Sect. 28. Nothing in this act contained shall extend in any way to affect the trade or business of a chemist and druggist in the buying, preparing, compounding, dispensing, and vending drugs, medicines, and medicinal compounds, wholesale and retail; but all persons using or exercising the said trade or business, or who shall or may hereafter use or exercise the same, may use, exercise, and carry on the same trade or business, in such Act not to affect chemists and druggists.

such medicine as is necessarily furnished in a surgical case. (*Id.*)

As to who is a surgeon. (See *Id.*)

Surgeons and apothecaries must use a due and reasonable degree of skill and diligence. (*Slater v. Baker*, 2 *Wils.* 359; *Seare v. Prentice*, 8 *East*, 348; see *Hancke v. Hooper*, 7 *Car. & P.* 81.) And if the patient be injured in consequence of gross ill-treatment of his case the apothecary or surgeon guilty of it cannot recover his charges. (3 *Stark. C. N. P.* 6; *Black v. Ld. Braybrook*,

2 *Stark. C. N. P.* 8.) But, if improper remedies are adopted, or unfit medicines are administered, under the advice of a physician, the surgeon or apothecary is, at all events, entitled to be paid. (*Kannen v. M. Mullen, Peake, Rep.* 59.)

If a surgeon furnish a bill, leaving a blank for his charge for attendance, and the patient pay a certain sum on that account, the surgeon, as he made no specific charge, is bound by the sum so paid, and can recover no more. (*Inson v. Batting*, 3 *Esp.* 192; *sed query.*)

55 Geo. 3, c. 194.

Saving rights.

Limitation of actions.

Venue.

Double costs.

6 Geo. 4, c. 133.

manner, and as fully and amply, to all intents and purposes, as the same trade or business was used, exercised, or carried on, by chemists and druggists before the passing of this act. (See *ante*, 189.)

Sect. 29. Nothing in this act contained shall extend to prejudice or in anywise to interfere with any of the rights, privileges, &c., of the two Universities of Oxford or Cambridge, the royal College of Physicians, the royal College of Surgeons, or the said Society of Apothecaries, except such as shall or may have been altered or amended by this act, or of any person practising as an apothecary previously to the 1st day of August, 1815.

Sect. 30. No action or suit shall be brought or prosecuted against any person, bodies politic, corporate, or collegiate, *for anything done in pursuance of this act*, after six calendar months next after the fact committed; or, in case there shall be a continuation of damages, then after six calendar months next after such damage shall have ceased; and every such action shall be laid and brought in the county where the matter in dispute shall arise; and the defendant recovering shall have double costs.

The 6 Geo. IV. c. 133, explaining and amending the preceding act, and containing other regulations and provisions as to apothecaries, remained in force only till the 1st August, 1826, and has not been renewed.

Pickpockets. See "*Larceny*," Vol. III.

Pigeons. See "*Game*," Vol. II.

Pillory and Tumbrel.

Pillory, what.

PILLORY (in Latin, *collistrigium*, from the person's neck being put between two boards) is a very ancient punishment, in this kingdom, and was used heretofore by the Saxons. (3 *Inst.* 219.)

Tumbrel, what.

The tumbrel seemeth to have been anciently the same with the ducking-stool; an engine for the punishment of scolding women, by ducking them over head and ears in water, and especially in muddy or stinking water, according to the etymology of Lord Coke, who tells us that the word tumbrel signifieth a dung-cart. (*Lamb.* 61; 3 *Inst.* 219.)

Who shall find them.

Every one that hath a leet or market ought to have a pillory and tumbrel to punish offenders; and it seems that a leet may be forfeited for not taking care to have a pillory and tumbrel. (3 *Inst.* 219; 2 *Haw.* c. 11, s. 5.)

Infamy of the punishment.

They that have been adjudged to the pillory or tumbrel are so infamous that they shall not be received to be jurors or witnesses. (3 *Inst.* 219.)

Judgment of pillory to be awarded for certain offences only.

Stat. 56 Geo. III. c. 138, reciting that, "as the punishment of the pillory has in many cases been found inexpedient, and not fully to answer the purpose for which it was intended," enacts, "that from and after the passing of this act judgment shall not be given and awarded against any person or persons convicted of any offence, that such person or persons do stand in or upon the pillory, except for the offences hereinafter mentioned; any law, statute, or usage to the contrary notwithstanding: provided that all laws now in force whereby any person is subject to punishment for the taking any false oath, or for committing any manner of corrupt and wilful perjury, or for the procuring and suborning any other person so to do, or for wilfully, falsely, and corruptly affirming or declaring, or procuring or suborning any other person so to affirm and declare, in any matter or thing which, if the

same had been deposed in the usual form, would have amounted to wilful and corrupt perjury, shall continue and be in full force and effect; and that all persons guilty of any of the said several offences shall incur and suffer the same punishment, penalties, and forfeitures as such persons were subject to by the laws and statutes of this realm, or any of them, before the passing of this act, and as if this act had not been made." 56 Geo. III. c. 138.

Sect. 2. "In all cases where the punishment of the pillory has hitherto formed the whole or a part of the judgment to be pronounced, it shall and may be lawful for the court before whom such offence is tried, to pass such sentence of fine or imprisonment, or of both, in lieu of the sentence of pillory, as to the said court shall seem most proper: provided that nothing herein contained shall extend or be construed to extend in any manner to change, alter, or affect, any punishment whatsoever which may now be by law inflicted in respect of any offence, except only the punishment of pillory, in manner as herein-above is directed." Court may fine or imprison offenders. Not to change any punishment for offences, except pillory.

Pilots. See "Ships," *post*.

Piracy.

AT common law, the offence of piracy consists in committing those acts of robbery and depredation upon the high seas, which, if committed on land, would have amounted to felony there. (1 *Russ.* 100.) At common law.

Where several mariners on board a ship lying near the Groyne seized the captain, he not agreeing with them, and, having put him on shore, carried away the ship, and afterwards committed several piracies, this force upon the captain, and the carrying away the ship, which was explained by the use of it afterwards, was adjudged piracy. (*R. v. May and others*, 2 *East*, *P. C.* 796; 2 *Russ.* 103.)

If persons at sea force the captain of a vessel to sell part of his cargo for less than its value, it is piracy. (*Kinloch v. Craig*, 3 *T. R.* 783; see 28 *Hen. VIII.* c. 15, s. 4.) But if a pirate attack a vessel, and before he obtains possession of her, the captain, in order to redeem her, give an oath to pay a sum certain, this is no piracy, for there was no taking. (*Molloy*, 64, s. 18.) But if there be an actual taking, it is piracy, although the pirate afterwards allow the party to proceed on his voyage. (1 *Sir L. Jenk.* 98.)

If a party making a capture at sea, do so by the authority of any prince or state, it cannot be considered piracy; for a nation never can be deemed pirates: fixed domain, public revenue, and a certain form of government, exempt a people from that character. Even a capture by authority of the states of Algiers, Tunis, or Tripoli, cannot be treated as piracy. (2 *Sir L. Jenk.* 790; *Grot.* 2, c. 18, s. 2; but see now 11 & 12 *Wil. III.* c. 7, *infra*, and 18 *Geo. II.* c. 30, s. 1, *post*, 198.)

If the subjects of the same state commit robbery upon each other, upon the high sea, it is piracy. If the subjects of different states commit robbery upon each other, upon the high sea, if their respective states be in amity, it is piracy; if at enmity, it is not; for it is a general rule, that enemies never can commit piracy on each other, their depredations being deemed mere acts of hostility. (1 *Sir L. Jenk.* 94; 4 *Inst.* 154.) See further, "*Robbery*," *post*.

A variety of offences have been made piracies by different statutes.

By statute.

Thus the 11 & 12 *Wil. III.* c. 7, s. 8, (made perpetual by the 6 *Geo. I.* c. 19,) enacts, that, "if any of his majesty's natural-born subjects or denizens of this King's subjects, &c. committing

11 & 12 W. 3, c. 7. piracy on others of king's subjects by commission from a foreign prince, shall be adjudged pirates, &c.

Commander or mariner, who shall betray his trust, or turn pirate, &c.

Persons setting forth, or aiding or assisting any pirate, &c.,

shall be adjudged accessories,

the like for concealing pirates, &c.

How accessories shall be tried.

kingdom shall commit any piracy or robbery, or any act or hostility, against others his majesty's subjects, upon the sea, under colour of any commission from any foreign prince or state, or pretence of authority from any person whatsoever, such offender and offenders, and every of them, shall be deemed, adjudged, and taken to be pirates, felons, and robbers; and they and every of them, being duly convicted thereof, according to this act, or the aforesaid statute of King Henry VIII. (28 Hen. VIII. c. 15,) shall have and suffer such pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers, upon the seas, ought to have and suffer." [But see now as to the punishment and consequences, *post*, 199.]

Sect. 9. "If any commander or master of any ship, or any seaman or mariner, shall, in any place where the admiral hath jurisdiction, betray his trust, and turn pirate, enemy, or rebel, and piratically and feloniously run away with his or their ship or ships, or any barge, boat, ordnance, ammunition, goods, or merchandizes, or yield them up voluntarily to any pirate, or shall bring any seducing messages from any pirate, enemy, or rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt, any commander, master, officer, or mariner, to yield up or run away with any ship, goods, or merchandizes, or turn pirate, or go over to pirates;" "or make or endeavour to make a revolt in the ship, (he) shall be adjudged, deemed, and taken to be a pirate, felon, and robber, and, being convicted thereof according to the directions of this act, shall have and suffer pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers, upon the seas, ought to have and suffer." [See now as to the consequences and punishment, *post*, 199.]

It has been decided that making, or endeavouring to make, a revolt, with a view to procure a redress of grievances, and without any intent to run away with the ship, or to commit any act of piracy, is an offence within the ninth section of this statute. (*R. v. Hastings, R. & M. C. C. 82.*)

Sect. 10, reciting that "several evil-disposed persons, in the plantations and elsewhere, have contributed very much towards the increase and encouragement of pirates, by setting them forth, and by aiding, abetting, receiving, and concealing them and their goods, and there being some defects in the laws for bringing such evil-disposed persons to condign punishment:" enacts, "that all and every person and persons whatsoever, who, after the 29th day of September, in the year of our Lord 1700, shall, either on the land or upon the seas, knowingly or wittingly set forth any pirate, or aid and assist, or maintain, procure, command, counsel, or devise any person or persons whatsoever, to do or commit any piracies or robberies upon the seas, and such person and persons shall thereupon do or commit any such piracy or robbery, then all and every such person or persons whatsoever, so as aforesaid setting forth any pirate, or aiding, assisting, maintaining, procuring, commanding, counselling, or advising the same, either on the land or upon the sea, shall be and are hereby declared, and shall be deemed and adjudged to be, accessory to such piracy and robbery done and committed; and further, that after any piracy or robbery is or shall be committed by any pirate or robber whatsoever, every person and persons, who, knowing that such pirate or robber has done or committed such piracy and robbery, shall, on the land or upon the sea, receive, entertain, or conceal any such pirate or robber, or receive or take into his custody, any ship, vessel, goods, or chattels, which have been by any such pirate or robber piratically and feloniously taken, shall be, and are hereby likewise declared, deemed, and adjudged to be, accessory to such piracy and robbery; and that, after the said 29th day of September, all such accessories to such piracies and robberies shall and may be inquired of, tried, heard, determined, and adjudged, after the common course of the laws of this land, according to the said statute made in the twenty-eighth year of King Henry VIII. as the principals of such piracies and robberies may and ought to be, and not otherwise; and, being thereupon attainted, shall suffer such pains of death, losses of lands, goods, and chattels, and in like manner, as the principals of such piracies, robberies, and felonies, ought to suffer, according to the said statute of King Henry VIII., which is hereby declared

to be and continue in full force, any thing in this present act contained to the contrary notwithstanding." 11 & 12 W. 3, c. 7.

Sect. 12. "And for the better and more effectual prevention of combinations and confederacies for the running away with or destroying of any ship, goods, or merchandize: be it further enacted by the authority aforesaid, that a reward of 10*l.* for every ship or vessel of one hundred tons or under, and 15*l.* for every ship or vessel of a greater burden, shall be paid by the captain, commander, or master of every ship or vessel, wherein any such combination or confederacy shall be set on foot for the running away with or destroying any such ship, or the goods and merchandizes therein laden, to such person as shall first make a discovery thereof, upon due proof of such combination or confederacy; the same to be paid at the port where the wages of the seamen of the said ship are or ought to be paid, after such discovery and proof made."

Reward to discover any combination for running away with ship, &c.

and how to be paid.

Sect. 16. How commissions to the cinque ports shall be directed. See "Admiralty," Vol. I.

Seamen deserting merchant ships to lose their wages.

Sect. 17. For the prevention of seamen deserting of merchant ships abroad, in parts beyond the seas, which is the chief occasion of their turning pirates, and of great detriment to trade and navigation in general, it is enacted, "that all such seamen, officers, or sailors, who shall desert the ships or vessels wherein they are hired to serve for that voyage, shall for such offence forfeit all such wages as shall be then due to him or them."

By the 1 Geo. I. c. 24, (made perpetual by 2 Geo. II. c. 28,) sect. 1, reciting that "the number of persons committing piracies, felonies, and robberies upon the seas, is of late very much increased; and, notwithstanding the laws already made and now in being, many idle and profligate persons have turned pirates, and betaken themselves to that wicked course of life, whereby the trade and navigation into remote parts will greatly suffer, unless some further provision be speedily made for bringing such persons, and all others, who shall be any ways aiding and assisting, or in confederacy with them, to condign punishment;" it is enacted, "that if any commander or master of any ship or vessel, or any other person or persons shall, from and after the 25th day of March, which shall be in the year of our lord 1722, anywise trade with any pirate, by truck, barter, exchange, or in any other manner, or shall furnish any pirate, felon, or robber upon the seas, with any ammunition, provision, or stores of any kind, or shall fit out any ship or vessel knowingly, and with a design to trade with, or supply or correspond with any pirate, felon, or robber upon the seas; or if any person or persons shall anyways consult, combine, confederate, or correspond with any pirate, felon, or robber on the seas, knowing him to be guilty of any such piracy, felony, or robbery, such offender and offenders, and every of them, shall in each and every of the said cases be deemed, adjudged, and taken to be guilty of piracy, felony, and robbery, and he and they shall and may be inquired of, tried, heard, and adjudged of, and for all or any the matters aforesaid, according to the 28 Hen. VIII. c. 15, and the 11 & 12 Wil. III. c. 7, and he and they, being convicted of all or any the matters aforesaid, shall suffer such pains of death, loss of lands, goods and chattels, as pirates, felons, and robbers upon the seas ought to suffer; and in case any person or persons belonging to any ship or vessel whatsoever, upon meeting any merchant ship or vessel on the high seas, or in any port, haven, or creek whatsoever, shall forcibly board or enter into such ship or vessel, and though they do not seize and carry off such ship or vessel, shall throw overboard or destroy any part of the goods or merchandizes belonging to such ship or vessel, the person or persons who shall be guilty thereof, shall in all respects be deemed and punished as pirates as aforesaid."

Trading with pirates, furnishing them with stores, corresponding with them, &c.

Forcibly boarding any merchant ship, and throwing any goods overboard.

Sect. 3, reciting that there are some defects in the laws for bringing persons who are accessories to piracy and robbery upon the seas to condign punishment, if the principal who committed such piracy and robbery is not or cannot be apprehended and brought to justice, enacts, "that all and every person and persons whatsoever, who, by the said statute made in the

Persons declared accessories to

1 Geo. 1, c. 24.
 piracy, by 11 & 12
 Wil.3, c. 7, shall be
 deemed principals.

eleventh and twelfth years of the reign of King William III. are declared to be accessory or accessories to any piracy or robbery therein mentioned, are hereby declared, and shall be deemed and taken, to be principal pirates, felons, and robbers, and shall and may, from and after the said 25th day of March, 1722, be inquired of, heard, determined, and adjudged, in the same manner as persons guilty of piracy and robbery may and ought to be inquired of, tried, heard, determined, and adjudged by the said statute made in the eleventh and twelfth years of his late majesty King William, and, being thereupon attainted and convicted, shall suffer such pains of death, loss of lands, goods, and chattels, and in like manner, as pirates and robbers ought by the said act to suffer."

Sect. 4, excluded offenders from the benefit of clergy. [See now as to the consequences and punishment, *post*, 199.]

Sect. 6. "Masters or seamen, not defending themselves against pirates, or who shall utter any discouraging words, shall, if the ship be taken, forfeit their wages to the owners, and suffer six months' imprisonment."

18 Geo. 2, c. 30.

By the 18 Geo. II. c. 30, s. 1, reciting that, by an act made in the eleventh year of King William III., intituled, "An Act for the more effectual Suppression of Piracy," it is (amongst other things) enacted, "that all piracies, felonies, and robberies committed on the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, and determined and adjudged, according to the directions of the said act, in any place at sea, or upon the land, in any of his majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the king's commission, in the manner therein directed; and it is also thereby further enacted, that if any of his majesty's natural-born subjects, or denizens of this kingdom, shall commit any piracy or robbery, or any act of hostility, against others of his majesty's subjects, upon the sea, under colour of any commission from any foreign prince or state, or pretence of authority from any person whatsoever, such offenders shall be deemed pirates, felons, and robbers; and they, being duly convicted, according to the said act, or according to an act of the twenty-eighth year of the reign of King Henry VIII. therein recited, shall have and suffer such pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to have and suffer; and whereas, since the present wars with France and Spain, divers of his majesty's natural-born subjects have entered in the service of his majesty's enemies, on board privateers or other ships, having commissions from the crowns of France and Spain, and committed divers hostilities against his majesty's subjects upon the seas, in the West Indies and other parts; and whereas doubts have arisen, whether, as such offenders have, by such their adherence to the king's enemies, been guilty of high treason, they can be deemed guilty of felony, within the intent of the said act, and, as such, liable to be tried by the said court of admiralty, appointed, or to be appointed, by virtue of the said act: therefore, to put an end to the said doubts, and to prevent the inconveniences that must arise, by the want of speedy justice on such offenders," it is enacted, that all persons, being natural-born subjects, or denizens of his majesty, who, during the present or any future wars, have committed, or shall commit, any hostilities upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority, or jurisdiction, against his majesty's subjects, by virtue or under colour of any commission from any of his majesty's enemies, or have been or shall be any other ways adherent, or giving aid or comfort to his majesty's enemies upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority, or jurisdiction, may be tried as pirates, felons, and robbers in the said Court of Admiralty, on shipboard, or upon the land, in the same manner as persons guilty of piracy, felony, and robbery, are by the said act directed to be tried; and such persons, being upon such trial convicted thereof, shall suffer such pains of death, loss of lands, goods, and chattels, as any other pirates,

Subjects or denizens, during any wars, committing hostilities at sea, against his majesty's subjects, where the admirals have power, or giving aid, &c. to enemies at sea, may be tried as pirates.

felons, and robbers ought, by virtue of the said recited act of the eleventh year of King William III., or any other act, to suffer." [See now as to the consequences and punishments, *infra*.] 18 Geo. 2, c. 30.

Sect. 2. "Any person who shall be tried and acquitted, or convicted, according to this act, for any of the said crimes, shall not be liable to be indicted, prosecuted, or tried again in Great Britain, or elsewhere, for the same crime or fact, as high treason." Not to be tried again for the same crime as high treason.

Sect. 3. Nothing in this act contained shall be construed to extend to prevent any persons guilty of any of the said crimes, who shall not be tried according to this act, from being tried for high treason within this realm, according to the aforesaid act of the twenty-eighth year of King Henry VIII. Criminals not tried by this act, may be tried for high treason by 28 H. 8, c. 5.

By 5 Geo. IV. c. 113, s. 9, "if any subject or subjects of his majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories, now or hereafter belonging to his majesty, or being in his majesty's occupation or possession, or under the government of the united company of merchants of England, trading to the East Indies, shall, except in such cases as are in and by this act permitted, after the first day of January, 1825, upon the high seas, or in any haven, river, creek, or place, where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove, or aid and assist in carrying away, conveying, or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves, into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall, after the said first day of January, 1825, except in such cases as are in and by this act permitted, upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed or removed, as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, then, and in every such case, the person or persons so offending shall be deemed and adjudged guilty of piracy, felony, and robbery, and, being convicted thereof, shall suffer death without benefit of clergy, and loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas, ought to suffer." [See now as to the punishment, *infra*.] Dealing in slaves on high seas, &c. to be deemed piracy.

By 28 Hen. VIII. c. 15, s. 2, 3, piracy at common law is punishable with death, and with loss of lands and goods in the same manner as upon an attainder for robbery upon land. The 39 Geo. III. c. 39, s. 1, however, made offences committed within the jurisdiction of the admiralty, punishable in the same manner as if they had been committed on land. The 1 Geo. IV. c. 90, s. 1, extended to such offences the benefit of clergy, as if committed on land; and the stat. 7 & 8 Geo. IV. c. 28, s. 12, enacted that "all offences prosecuted in the High Court of Admiralty of England should, upon every first and subsequent conviction, be subject to the same punishment whether of death or otherwise, as if such offences had been committed upon the land." See "Admiralty," Vol. I. Punishment of.

As to the trial of the offence of Piracy. See "Admiralty," Vol. I. Trial of.

Admiralty of England: The jurors for our lord the king upon their oath present, that C. D., late of the parish of in the county of labourer, and E. F., late of the same place, seaman, on the day of in the year of the reign of our lord the now king Will. IV., with force and arms, upon the high sea, within the jurisdiction of the Admiralty of England, to wit, in and on board of a certain ship called [the Dart], in a certain place upon the Indictment for piracy at common law.

Plague and Quarantine.

high sea, called [or distant about from] then being, in and upon certain seamen, to wit, G. H., &c. [or, to the jurors aforesaid unknown] in the peace of God and our lord the king then and there being, piratically and feloniously did make an assault, and them the said seamen in bodily fear and danger of their lives on the high sea aforesaid then and there piratically and feloniously did put, and the said ship called [the Dart], and the apparel and tackle of the said ship, of the value of [£2000, and one hundred chests of oranges], of the value of [£100], in and on board the said ship then being, of the goods and chattels of I. J., &c. [or, certain subjects of our said lord the king, to the jurors aforesaid unknown,] and then and there in the custody and possession of the said seaman last aforesaid, with force and arms, from the care, custody, and possession, and against the will of the said seaman last aforesaid, then and there, to wit, on the day and year last aforesaid, upon the high sea aforesaid, in the place aforesaid, and within the jurisdiction aforesaid, piratically, feloniously, and violently did steal, take, and carry away : against the peace of our said lord the king.

Place. See "Indictment," Vol. III.; "Conviction," Vol. I.

Plague and Quarantine.

THE performance of quarantine, or forty days' probation, when ships arrive from countries infected with contagious disorders, is of the highest importance, as it affects the public health of the nation, and has been enforced from time to time by various legislative enactments. (4 Bla. Com. 161. See 1 Chit. Commercial Law.)

6 Geo. 4, c. 78.

Repeal of former statutes.

What vessels shall be liable to quarantine.

The principal statute upon this subject now in force, is the 6 Geo. IV. c. 78. By that act, "all acts and parts of acts of Parliament, relating to the performance of quarantine," are repealed, and other regulations enacted in their stead, for the disobedience of which various pecuniary penalties are inflicted.

By s. 2, "All vessels, as well his majesty's ships of war as others coming from any place from whence his majesty, by the advice of his privy council, shall have adjudged it probable that the plague, or other infectious disease, may be brought, and all vessels and boats receiving any person, goods, or any other article whatsoever, out of any vessel so coming from such infected place, whether such persons, goods, or other articles shall have come in such vessels, or such persons shall have gone, or articles have been put on board the same either before or after the arrival of such vessels at any port or place in the United Kingdom, or the Islands of Guernsey, Jersey, Alderney, Sark, or Man, and whether such vessels were or were not bound to any port or place in the United Kingdom or the islands aforesaid, and all persons, goods, or any other article whatsoever, on board of any vessels so coming from such infected place, or on board of any such receiving vessels or boats, shall be liable to quarantine from the time of the departure of such vessels from such infected place, or from the time when such persons, goods, or other articles, shall have been received on board respectively, and all such vessels and boats as aforesaid, and all persons, (as well pilots as others,) goods, and all other articles as aforesaid, whether coming in such vessels or boats from such infected place, or going on board the same either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and all persons, goods, and other articles as aforesaid, on board such receiving vessel or boat, shall, upon their arrival at any such port or place, be obliged to perform quarantine in such place or places, for such time and in such manner as shall from time to time be directed by his majesty, by his order in council, and that, until

such vessels and boats, persons, goods, and other articles, shall have respectively performed, and shall be duly discharged from quarantine, no such person, goods, or other articles, shall come on shore or be put on board any other vessel or boat in order to come on shore, although such vessels so coming from such infected place as aforesaid, may not be bound to any port or place in the United Kingdom, or the islands aforesaid, unless in such manner and in such cases and by such licence as shall be directed or permitted by such order or orders made by his majesty in council; and all such vessels and boats, whether coming from such infected place as aforesaid, or being otherwise liable to quarantine as aforesaid, and all persons, (as well pilots as others,) goods, wares, and merchandize, and other articles as aforesaid, whether coming or brought in such vessels or boats, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom or the islands aforesaid, and although such vessels or boats shall not be bound to any port or place in the United Kingdom or the islands aforesaid, and all commanders, masters, or other persons having the charge or command of any such vessels or boats, whether coming from any infected place or being otherwise liable to quarantine as aforesaid, shall be subject to all provisions, rules, regulations, and restrictions, contained in this act, or in any order or orders which shall be made by his majesty, his heirs, and successors, in council as aforesaid, concerning quarantine and the prevention of infection, and to all the pains, penalties, forfeitures, and punishments contained in this act, for any breach or disobedience thereof, or of any order or orders of his majesty in council, made under the authority thereof."

Sect. 3. "It shall be lawful for his majesty, by his order in council, or for the privy council or any two of them, by their order, as often as they may see reason to apprehend that the yellow fever or other highly infectious distemper prevails on the continent of America or in the West Indies, to require that every vessel coming from any port or place on the continent of America or in the West Indies, shall come to an anchor at certain places, to be appointed by the commissioners of his majesty's customs, for the purpose of having the state of health of the crew of such vessel ascertained before such vessel shall be permitted to enter the port whereto she shall be bound, or any other port of the United Kingdom; but that such vessel shall not be deemed liable to quarantine unless it shall be afterwards specially ordered under that restraint."

Power for privy council to order vessels coming from America or the West Indies, when the yellow fever, &c., prevails there, to go to certain places without being liable to quarantine.

Sect. 4. "It shall be lawful for the lord lieutenant of Ireland, by his order or orders, made by the advice and consent of his majesty's privy council in Ireland, and notified by proclamation, to give directions, where the urgency of the case shall require, as to the place or places, and as to the time and manner in which ships and vessels arriving, and persons, goods, and merchandizes coming or imported into any port or place in Ireland, shall make their quarantine in pursuance of the provisions of this act; and that until such ships, vessels, persons, goods, and merchandizes shall have respectively performed and been discharged from such quarantine, pursuant to the provisions of this act, it shall be lawful for any such persons, goods, or merchandizes, to come or be brought on shore, or to go or be put on board any other ship or vessel in any place in Ireland in such cases, and by such licence as shall be directed or permitted by any order or orders to be made by the lord lieutenant of Ireland, by the advice and consent of the privy council there, and notified as aforesaid; and that all such ships and vessels, and the persons or goods coming or imported in, or going and being put on board such ships or vessels, and all ships, vessels, boats, and persons receiving any goods or persons out of the same, and all persons going on board any such ship or vessels, shall be subject to such orders, rules, and directions concerning quarantine and the preventing infection, as shall be made from time to time by the lord lieutenant of Ireland in council, and shall be notified by proclamation as aforesaid; and that the proclamation in the *Dublin Gazette* of any order or orders of the lord lieutenant and council shall be deemed to be sufficient notice to all persons concerned of all matters contained in any such order or orders respectively."

Power to lord lieutenant, where the urgency of the case requires, to give directions by proclamation where vessels shall perform quarantine, &c.

6 Geo. 4. c. 78.

Regulations for
vessels in which
infection shall
appear within or
without the Straits
of Gibraltar.

Sect. 5. Goods and vessels specified in any order of council are made subject to quarantine, as also all vessels arriving from any port under suspicious circumstances as to infection.

Sect. 6. The privy council may make such order as they shall think necessary upon emergencies.

Sect. 7. "If the plague or such other infectious disease shall appear on board any vessel within or without the Straits of Gibraltar, then the commander, master, or other person having the charge, shall immediately proceed to such place as his majesty by the advice of his council shall from time to time direct and appoint, where being arrived he shall make known his case to some officer of the customs there, who shall with all possible speed send intelligence thereof to the commissioners of the customs in the port of London, to the end that such precautions may be used to prevent the spreading of the infection as the case shall require; and the said vessel shall there remain until directions shall be given thereto by the lords or others of his majesty's privy council, or any two or more of them, nor shall any of the crew or passengers on board thereof go on shore, and such master, and every other person on board such vessel, shall obey such directions as he shall receive from the lords and others of his majesty's privy council or any two or more of them as aforesaid; and the said commander, master, or any other person on board such vessel as aforesaid, who shall not act conformably to the provisions and regulations herein directed, or shall act in disobedience to such directions as shall be received on board such vessel from the lords or others of the privy council, or any two or more of them as aforesaid, shall forfeit the sum of 100*l*."

Sect. 8. Masters of vessels liable to quarantine are to make signals on meeting other vessels at sea, or being within two leagues of the United Kingdom or Guernsey, &c., on penalty of 100*l*.

Sect. 9. Masters of vessels are to hoist certain signals when plague or infectious disease on board, on penalty of 100*l*.

Sect. 10. Penalty on persons hoisting signals when not liable, 50*l*.

Sect. 11. Masters of vessels on their arrival, are to give to the pilots an account of the places at which they shall have loaded and touched, on penalty of 100*l*. Pilots are to give notice of any proclamation or order in council requiring the performance of quarantine, on penalty of 100*l*.

Sect. 12. Pilots are to give notice if any articles be on board liable to quarantine, on penalty of 100*l*. Penalty on pilots unduly conducting vessels to any other place than that appointed for their reception, 200*l*.

Sect. 13. Pilots, &c. are to bring to at request of officer of customs, on penalty of 100*l*.

Sect. 14. Regulations are made for better ascertaining whether vessels be actually infected, or the persons on board liable to orders touching quarantine; masters of vessels refusing to answer interrogatories, or answering untruly, &c., are to forfeit 200*l*.

Sect. 15. Vessels subject to quarantine arriving at any port than that at which it ought to be performed, may be forced to repair to the appointed place. Masters of vessels that have touched at infected places, &c., omitting to disclose the same, or omitting to hoist the prescribed signal, to forfeit 300*l*.

Sect. 16. Commanders are to deliver up bills of health, manifests, and log-book, to the superintendent of quarantine, on penalty of 100*l*.

Sect. 17. A penalty is imposed on masters, &c., quitting vessels, or permitting persons to quit them, or not conveying same to the appointed places, 400*l*. Penalty on persons coming in such vessels, or going on board and quitting them before discharged from quarantine, to suffer imprisonment for six months and forfeit 300*l*.

Sect. 18. For punishing disobedience or refractory behaviour in persons under or liable to quarantine, or persons having intercourse with them: persons refusing to repair to the lazarette or vessel, to forfeit 200*l*.

Sect. 19. Persons quitting vessels liable to perform quarantine, &c., may be seized.

Sect. 20. Intercourse with stations allotted for quarantine of vessels may be prohibited by order in council, and penalty for breach, 200*l*.

Sect. 21. Penalty on persons embezzling goods performing quarantine, neglecting or deserting their duty, or permitting persons, vessels, &c., to depart without authority, or giving false certificates, or damaging goods.

6 Geo. 4, c. 78.

Sect. 23. After proof of performance of quarantine, and proper certificate, vessels or persons, &c., are not to be liable to further detention.

Sect. 24. Goods liable to perform quarantine are to be opened and aired, as directed by order in council, and proof thereof is to be made, &c., and a certificate thereof is to be granted.

Sect. 25. Persons forging or uttering false certificates, required by order in council, guilty of felony. See "*Forgery*," Vol. II.

Sect. 26. Penalty on persons landing goods, &c., from vessels liable to perform quarantine, or receiving them or secreting them from vessels performing quarantine, 100*l*.

Sect. 27. His majesty in certain cases may prohibit vessels under one hundred tons from sailing until bond be given by the master with certain conditions. Penalty for sailing without giving such security, forfeiture of vessel, &c., 200*l*.

Sect. 28. Consuls and vice-consuls may administer oaths.

Sect. 29. Persons authorized to take examinations may administer oaths; false oaths incur the penalty of wilful and corrupt perjury.

Sects. 31, 32, 33, 34, relate to the recovery and application of penalties particularly specified in the act.

Sect. 35. "All offences committed against any of the provisions of this act for which no specific penalty, forfeiture, or punishment is provided by this act, shall and may be tried, heard, and determined before any three justices of the peace of the county, riding, division, city, or place where such offence or disobedience shall happen; and if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty, not exceeding the sum of 500*l*., for any offence, or to such imprisonment not exceeding twelve months for any one offence, as shall in the discretion of the three justices be judged proper; and such forfeiture and penalty shall be paid, two-thirds to the person suing for the same, and the remainder to his majesty, to be applied as the proceeds of other forfeitures and penalties are hereinbefore directed to be applied."

Offences not being felony, and offences for which no specific penalty is provided, may be determined before three justices, who may fine or imprison.

Application of penalties.

Sect. 36 enacts how far the answers of persons, having the charge of vessels, are to be received in evidence, and other matters as to evidence.

Sect. 37 relates to actions, &c. against persons for acts done under the statute.

Statutes 46 Geo. III. c. 98, 50 Geo. III. c. 20, and 51 Geo. III. c. 46, are repealed by the 6 Geo. IV. c. 78, and 6 Geo. IV. c. 105.

By 2 & 3 Wil. IV. c. 10, and 2 & 3 Wil. IV. c. 11, as amended by 2 & 3 Wil. IV. c. 27, provisions are made for the prevention of the disease called cholera. These acts are continued by the 3 & 4 Wil. IV. c. 75.

Cholera.

Plaint. See "*County Court*," Vol. I.

Plate.

TO prevent frauds in the true making of plate, it is enacted by the 12 & 13 Wil. III. c. 4, the 1 Anne, st. 1, c. 9, and 13 Geo. III. c. 52, that (besides the city of London) York, Exeter, Bristol, Chester, Norwich, Newcastle-upon-

Assayers.

Assayers.

Tyne, Sheffield, and Birmingham, shall be appointed for the assaying and marking of plate.

And the goldsmiths, silversmiths, and plateworkers in the said places, shall be incorporated into a company, and choose wardens yearly.

An assayer shall be elected by the company in each of the said places, who shall take an oath of office.

Maker to be entered with wardens of company.

By the said acts, every goldsmith, silversmith, and plateworker within the said places, and elsewhere, shall, before he takes upon him to exercise the said trade, enter his name, and mark, and place of abode, with the wardens of the company where an assayer is; and if he shall not make such entry, or shall strike any other mark but what is so entered, he shall forfeit double value, half to the king, and half to him that shall sue in any court of record in the county or place where the offence shall be committed.

Assaying.

Every goldsmith, silversmith, and plateworker, inhabiting where there is not an assayer, shall first fix his mark, and then send it to an assayer; and if it be found by the assayer to be of the fineness of the standard, then he shall mark it: and if any such person shall make any plate less in fineness than the standard, or put any to sale (except what by reason of its smallness is not capable of the touch) before it shall be assayed and marked, he shall forfeit the same or the value thereof.

And by the 24 Geo. III. c. 53, s. 4, every working gold or silversmith shall send to the Assay Office all plate made by him, to be touched or assayed, and with every parcel shall send a written note, containing the day of the month and year, the name of the maker, and place of his abode, and also the species in such parcel, and number of each species, with the total weight of each parcel, and the duty payable for the same.

Fineness by the standard.

As to the fineness thereof by the standard, it is enacted by the 6 Geo. I. c. 11, s. 41, that plate may be made, either according to the old standard (of 11 ounces and 2 pennyweights fine silver, in every pound troy), or according to the new standard (of 11 ounces and 10 pennyweights); but differently marked.

Mark.

That is to say, plate of 11 ounces and 2 pennyweights shall be marked with the maker's mark, viz. the first letters of his christian and surname, the mark of the Goldsmiths' Company in London, viz. the leopard's head, lion passant, and a distinct variable mark to denote the year (or, with the mark of the worker or maker, and with the mark appointed to be used by the assayers at the several respective places).

And by the 12 Geo. II. c. 26, s. 5, plate of 11 ounces and 10 pennyweights shall be marked with the maker's mark, viz. the first letters of his christian and surname; and the mark of the said company, viz. a lion's head erased, the figure of a woman, called Britannia, and the said mark or letter to denote the year (or, with the mark of the worker or maker, and the mark of one of the said cities or towns respectively).

Sect. 41. And it shall not be lawful to make any vessels of silver plate or manufactures of silver of a coarser alloy than what is herein specified, under the penalties and forfeitures prescribed by any of the laws now in being concerning wrought plate.

Additional mark.

And moreover, by the 24 Geo. III. c. 53, s. 1, 5, all plate shall be marked with a new mark of the king's head, beside the old marks, and the duties shall be paid previous to the marking thereof.

And by s. 8, no gold or silver plate shall be sold or exchanged until marked, on pain of 50*l*.

Allowance to be made.

But by s. 7, 10, the duties shall be returned for all plate defaced for being coarser than the standard (if no fraud appear). And an allowance of one-fifth part shall be made for goods sent to be assayed in a rough state.

Goods excepted.

And by s. 9, the said duties shall not extend to any jeweller's work other than mourning rings, nor to any jointed night ear-rings of gold, or gold springs of lockets, or to goods excepted by the 12 Geo. II. c. 26, s. 6.

Duties.

By the 55 Geo. III. c. 185, all former duties upon plate (except arrears) are repealed; and the following substituted in lieu thereof:—

Plate of gold made or wrought in Great Britain, and which shall or

ought to be touched, assayed, and marked in Great Britain, for every ounce thereof, and so in proportion for any greater or less quantity 17s. per ounce. 55 Geo. 3. c. 185.

Exemption.—Gold watch-cases.

Plate of silver made or wrought in Great Britain, and which shall or ought to be touched, assayed, or marked in Great Britain, for every ounce thereof, and so in proportion for any greater or less quantity 1s. 6d. per ounce.

Exemptions.—All watch-cases, chains, necklace-beads, lockets, filigree work, shirt buckles or brooches, stamped medals, and spouts to china, stone or earthenware tea-pots, of silver, of any weight whatsoever:

Tippings, swages, or mounts, not weighing ten pennyweights of silver each, and not being necks or collars for castors, cruets, or glasses appertaining to any sort of stands or frames, wares of silver not weighing five pennyweights of silver each; but this exemption not to include necks, collars, and tops for castors, cruets, or glasses, appertaining to any sort of stands or frames; buttons to be affixed to or set on any wearing apparel, solid silver buttons, and solid studs, not having a bezelled edge soldered on, wrought seals, blank seals, bottle-tickets, shoe-clasps, patch-boxes, salt-spoons, salt-ladles, tea-spoons, tea-strainers, caddy-ladles, buckles, and pieces of garnish, cabinets, or knife-cases, or tea-chests, or bridles, or stands, or frames. Exemptions continued.

As to the offence of forging marks on plate, &c., and uttering forged marks, &c., see "*Forgery*," Vol. II. Forgery of.

R. v. Jackson, 1 Cowp. 297, 298. The defendant had been convicted upon the 28 Edw. I. c. 20 (the punishment of which is imprisonment and ransom at the king's pleasure) for making silver plate of worse alloy than the standard alloy of the realm. The indictment also contained a count upon the 6 Geo. I. c. 11, and the third for an offence at common law. He was found guilty upon all the counts. In Mich. 1774, motion was made in arrest of judgment, upon the ground of the 28 Edw. I. c. 20, being repealed, when the Court of King's Bench took time to consider and look into the acts of Parliament: Lord Mansfield declared the unanimous opinion of the court, that it "is in full force, and not repealed or abrogated by any of the subsequent statutes since enacted." His Lordship observed, that the preamble of the 12 Geo. II. c. 26, recites the 28 Edw. I. c. 20, and some other acts, as subsisting laws; but says not one word as to a repeal of any of the former laws. He farther instanced two similar cases decided by him, where sentence of fine and imprisonment was pronounced, and no objection was made in either case. "Therefore," said he, "I suppose it was taken for granted, as it is at this time by the Goldsmiths' Company, that the statute was still in force. We are all of opinion that it is in force, and, consequently, that the indictment is good." The rule for arresting judgment was discharged.

As to the licence for dealing in plate, see tit. "*Excise*," Plate, Vol. II. and the 6 Geo. IV. c. 118; 9 Geo. IV. c. 49, s. 12. Licence for dealing in.

Players and Playhouses.

IF we go back to a very ancient period in the history of the country, we shall find no trace of players existing: as we advance further in point of time, we ascertain from acts of Parliament, and other documents, that exhibitions of the stage did then take place under the protection, in some instances, of the king and nobles, sometimes in religious houses, and sometimes in towns, and other places, with the sanction of the governing local authorities. In the time of Elizabeth, players were declared by statute to be rogues and vagabonds, unless acting as the servants of some baron, or person of higher degree. The statute of 12 Ann. s. 2, c. 23, classed all common players of interludes among rogues and vagabonds, and to explain

10 Geo. 2, c. 28.

Vagrant law.

this (a), the act of 10 Geo. 2, c. 28, was passed ; by the first section of which it was enacted that every person who shall, for hire, gain, or reward, act, represent, or perform, or cause, &c., any play or other entertainment of the stage, or any part therein, if he shall not have any legal settlement where the same shall be acted, &c., without authority, by patent from the king or licence from the lord chamberlain, shall be deemed a rogue and a vagabond within the 12 Anne (which act is repealed, but the same was re-enacted by the 17 Geo. II. c. 5). But this provision is repealed by the 5 Geo. IV. c. 83 ; and players are no longer within the penalties of the Vagrant Act.

Acting, &c. without licence.

By the 10 Geo. II. c. 28, sect. 2, "If any person having or not having a legal settlement, as aforesaid, shall, without such authority or licence, as aforesaid, act, represent, or perform, or cause to be acted, represented, or performed, for hire, gain, or reward, any interlude, tragedy, comedy, opera, play, farce, or other entertainment of the stage, or any part or parts therein, every such person shall, for every such offence, forfeit the sum of 50*l*."

Sect. 3. No person shall, for hire, gain, or reward, act, or cause to be acted, any new play, or any part therein, or any new part added to an old play, or any new prologue or epilogue, unless a true copy thereof be sent to the lord chamberlain fourteen days before the acting, together with an account when and where it is intended to be acted, signed by one of the managers.

The lord chamberlain may prohibit the same, as he thinks fit ; and if any such person shall, for hire, &c., act, or cause to be acted, without such copy being sent, or against such prohibition, he shall forfeit 50*l*., and the licence of the playhouse shall be void.

Sect. 5. And no person shall be authorised to act, except within the liberties of the city of Westminster, and where the king shall reside.

Sect. 6, all pecuniary penalties inflicted by this act may be recovered in the courts at Westminster, or before two justices, by the oath of one witness or confession, to be levied by distress ; and for want of sufficient distress, the offender to be committed to the house of correction for a time not exceeding six months, there to be kept to hard labour, or to the common gaol, not exceeding six months, without bail or mainprize. Persons aggrieved by order of the justices, may appeal to the next sessions. The said penalties to be distributed, half to the informer, or persons suing, and half to the poor.

Sect. 7, if any interlude, &c., (as *supra*), be acted, represented, or performed, in any place where wine, ale, beer, or other liquors, shall be sold or retailed, the same shall be deemed to be acted for *gain, hire, and reward*.

Sect. 8, prosecution to be within six calendar months. And the section provides as to actions for acts done under the statute.

By special acts of Parliament, playhouses are permitted to be erected in particular places.

What an offence within 10 Geo. 2, c. 28.

Tumbling is not an entertainment of the stage within the 10 Geo. II. c. 28, (*R. v. Handy*, 6 *T. R.* 286.) The defendant was convicted in the penalty of 50*l*., under the 10 Geo. II. c. 28, for acting, representing, and performing, a certain entertainment of the stage, called tumbling, &c., at Birmingham ; which conviction was removed by *certiorari*, in order to take the opinion of the court whether this offence came within the statute. Lord Kenyon, C. J. (*inter alia*), said, "I do not think that tumbling is an entertainment of the stage within the meaning of the act ; it might equally be said that fencing on a public stage is. By the third section of this act, a copy of the piece to be represented is to be sent to the lord chamberlain for his approbation, previous to the acting ; but no copy could have been given of this entertainment. This is a penal act, and cannot be extended to entertainments which did not exist when the act was made."

A conviction under the statute of 10 Geo. II. c. 28, s. 2, for performing without patent from the king, or licence from the lord chamberlain, at *Manchester*, is good ; it is for the defendant to show, if such be

(a) See per Lord Tenterden, C. J., in *R. v. Neville*, 1 *B. & Ad.* 494, *post*, 209.

the fact, that he had a licence from the sessions. (*R. v. J. G. Neville*, 10 Geo. 2, c. 28. 1 B. & Ad. 489.)

A conviction by two justices under this statute having been affirmed on appeal, was, together with the order of sessions, removed into this court by *certiorari*, and confirmed. A *levari facias* issued out of this court for the penalty, and there was a return of *nulla bona*. The Court of King's Bench, not having authority to exercise the discretion given by the statute to the justices, as to the term of imprisonment, granted a *procedendo* to carry back to the sessions the record of conviction, and the order of sessions, and commanding the justices to enter continuances upon the appeal from session to session, and proceed to award execution. (*R. v. Neville*, 2 B. & Ad. 299.)

In the Court of King's Bench, on the sixth of December 1831, one Parsons recovered from one Chapman seven penalties of 50*l.* each, for performing and causing to be performed, during March, 1830, various regular plays, such as *The Beggar's Opera*, *Cure for the Heart Ache*, *The Irish Tutor*, at the Theatre in Tottenham-street, Tottenham Court-road, without having a licence, according to the 10 Geo. II. c. 28. Two legal objections were submitted on behalf of the defendant—first, that the plaintiff was bound to prove that the defendant had no licence; secondly, that by the second section of this act of 10 Geo. II. c. 28, on which this action was founded, the players came under the description of rogues and vagabonds; and if so, then the section was repealed by the subsequent general Vagrant Act of the 17 Geo. II.; or, if not repealed by that act, it was directly repealed by that of 3 Geo. III. c. 40.—Lord Tenterden was of opinion that the *onus* of proving a patent or licence lay on the defendant; and also, that under the second section of 10 Geo. II. c. 28, the players were not included under the description of rogues and vagabonds. The expression “offence” did there occur, but it was the offence of performing without licence, and not that of being rogues and vagabonds.

R. v. Glossop, 4 B. & Ald. 616. In a conviction of defendant for causing to be acted, at a certain place called the Cobourg Theatre, in the parish of St. Mary, Lambeth, for gain and reward, a certain entertainment of the stage, called *Richard the Third*, the evidence set forth was, that the defendant was seen once or twice at the rehearsals of *Richard*; that another person was stage-manager; that defendant engaged J. B. B. to perform, and gave him a check for the amount of his benefit: it was held that this was sufficient to warrant the justices in drawing the conclusion, that the defendant caused the play of *Richard the Third* to be performed. The conviction also stated, after the appearance and plea of defendant, that divers credible witnesses, to wit, J. B. B., &c., came before the justices upon their several oaths, to them severally and respectively, and in the presence of the said J. B. B., &c., duly administered: held that, taking it altogether, it did substantially appear that the oath was administered to the witnesses in the presence of the magistrates. The evidence also stated, that the Cobourg Theatre was in the parish of Lambeth, and the adjudication of the penalty was to the poor of the parish of St. Mary, Lambeth: it was held, that this was no variance, it not appearing that there were two distinct parishes so named. The conviction stated, “that on, &c., at, &c., C. W. W. came before two justices for the county of Surrey, and informed them that defendant, late of the parish of St. Mary, Lambeth, in the county of Surrey, in a certain place in the parish aforesaid, called the Royal Cobourg Theatre, without lawful authority of letters patent, and without licence from the Lord Chamberlain, did cause to be acted, for gain and reward, a certain entertainment of the stage, to wit, a certain tragedy called *Richard the Third*, or the *Battle of Bosworth Field*, &c., contrary to the statute,” &c. The conviction then stated the appearance of defendant, and plea of *not guilty*; and then proceeded thus: “Nevertheless, upon this same day and year last aforesaid, at the said police-office, Union Hall, in the said parish of St. Saviour aforesaid, divers credible witnesses, to wit, one John Tovey, one Junius Brutus Booth, and one William Allway, came

Evidence to support conviction.

Form of conviction.

10 Geo. 2, c. 28.

before us, the said justices, upon their several oaths on the holy Gospel of God, to them severally and respectively now here, and in the presence of the said John Tovey, Junius Brutus Booth, and William Allway, respectively duly administered, depose, swear, and, in the presence of the said Joseph Glossop, upon their oaths aforesaid, severally affirm and say," &c. In the evidence it was stated that the Cobourg Theatre was in the parish of Lambeth, and that an alteration of the play of Richard the Third was acted there for money. As to the defendant's causing that play to be represented, the evidence stated was, that J. B. B. became acquainted with defendant as manager and proprietor of the Cobourg Theatre; that defendant was seen once or twice at the rehearsals of Richard; that another person was stage-manager; that J. B. B. engaged with defendant to perform several characters; that J. B. B. applied to defendant for that purpose; and that defendant made him an offer for twelve nights to perform; that the contract was in writing; that J. B. B. afterwards performed there; that, at his benefit, defendant gave him a check for the amount. The conviction concluded that defendant was guilty, and adjudged the penalty of 50*l.*; one half to the informer, and one half to the poor of the parish of St. Mary Lambeth, being the parish where the offence was committed. The conviction having been removed into the Court of King's Bench by *certiorari*, three objections were taken. First, that it did not sufficiently appear that the defendant had caused the play of Richard the Third to be performed: all that appears is, that he was seen at one or two rehearsals of Richard, and that he offered to engage performers, and paid them. But these facts do not show, even *prima facie*, that he caused that particular play to be performed, which is necessary. Secondly, the witnesses do not appear to have been sworn in the presence of the magistrates, or of the defendant; they are stated to have been sworn in the presence of themselves only: if so, the evidence was improperly taken. Thirdly, the adjudication of the penalty is to the poor of St. Mary, Lambeth; whereas the evidence states the Cobourg Theatre to be in Lambeth only, and *non constat* that Lambeth and St. Mary, Lambeth, are the same parish. Abbott, C. J., said, "As to the first objection, it is sufficient to say, that it cannot prevail, unless the evidence stated on the face of the conviction be such as that no reasonable person could draw the conclusion, that the defendant caused this particular play to be performed. I am very far from thinking that to be the case. The magistrates might very reasonably draw the conclusion; and, having done so, we cannot overturn their decision as to the fact. As to the second objection, the whole forms one sentence; and it is there stated that the defendant, having appeared before the magistrates, and pleaded *not guilty*, 'nevertheless, upon this same day and year, divers credible witnesses, to wit, &c., came before us upon their several oaths, on the holy Gospel of God, now here in the presence of the said witnesses duly administered,' &c. Taking the whole together, I think it substantially appears that the oath was administered in the presence of the magistrates to the witnesses. As to the last objection, I think the evidence sufficient to support the adjudication. It does not appear that Lambeth and St. Mary, Lambeth, are two parishes; and, unless that be so, it is no variance. If, in the trial of an ejectment, the premises were described to be in St. Mary, Lambeth, and the evidence stated them to be in Lambeth, I think it would be no variance. And it was so held in *Doe d. Tollet v. Salter*, 13 *East*, 9, where the ejectment was for lands in Farnham, which, at the trial, were proved to be in Farnham Royal; and there it was held no variance, the defendant not having proved that there were two Farnhams. I do not think, therefore, that the magistrates were wrong in the adjudication made by them on this evidence. Upon the whole, therefore, none of these objections are sufficient; and the conviction, being regular, must be affirmed." Conviction affirmed. See further as to variances in the statement of places. "Indictment," Vol. III.

Taking the second and fifth sections of the above act of 10 Geo. II. together, their effect is clear, that no person shall perform at all without

patent or licence, nor with it, unless within the limits prescribed. Subsequently to this statute, it happened that many great towns in various parts of the country were desirous of having theatrical entertainments, and acts of parliament were passed enabling the king to authorize them. There were other places where it was found desirable that theatrical performances should occasionally take place, but which could not bear the expense of obtaining an act of parliament for that purpose, or to which, on other accounts, such an act could not conveniently be extended. For the accommodation of such places the following statute of 28 Geo. III. c. 30, was passed; and the effect of that is, that what was unlawful by the act of 10 Geo. II. c. 28, is now lawful, if a licence shall have been granted by the magistrates pursuant to the 28 Geo. III. c. 30. (Per Lord Tenterden, C. J., in *R. v. Neville*, 1 B. & Ad. 495.) The following is the enactment of that statute.

By s. 1, "It shall be lawful for the justices at the general or quarter sessions, at their discretion, to grant a licence to any person making application for the same by petition for the performance of any such tragedies, comedies, interludes, operas, plays, or farces, as are or shall be represented at the patent or licensed theatres in Westminster, or have been submitted to the inspection of the lord chamberlain, as aforesaid, at any place within their jurisdiction, or within any city, town, or place, situate within the limits of the same, for any time not exceeding sixty days, to commence within the next six months, and to be within such four months as shall be specified in the said licence, so as there be only one licence in use at the same time within the jurisdiction so given, and so as such place be not within twenty miles of London or Westminster, or eight miles of any patent or licensed theatre, or ten miles of the residence of the king, or of any place within the same jurisdiction, at which, within six months preceding, a licence under this act shall have been had and exercised; or within fourteen miles of either of the universities, or within two miles of the outward limits of any city, town, or place, having peculiar jurisdiction, and so also as no licence under this act shall have been had and exercised at the same place within eight months then next preceding."

Sect. 2. "But no such licence shall be granted to be exercised within any city, town, or place, having peculiar jurisdiction, unless proof be made that the majority of the justices acting for such place have, at a public meeting, signed their consent; or unless an express condition be therein inserted, that the same shall not be valid until approved by the majority of the justices of such place, at a meeting holden expressly for that purpose."

Sect. 3. "Nor shall such licence be granted by the justices within any city, town, or place, unless notice shall have been given by the person applying for such licence three weeks before such application to the mayor, bailiff, or other chief civil officer of such place, of such intended application."

It has been laid down, that though the audience at a theatre have a right to express their disapprobation of any performance or performer exciting their displeasure at the moment, yet if a number of persons go thither *with an intention to make a disturbance*, and render the performance inaudible, though they offer no actual violence to the house, or any person there, yet they will be guilty of a riot, or a rout. (*Clifford v. Brandon*, 2 Camp. 358; and see "*Conspiracy*," Vol. I.)

Playhouses may become nuisances, like any other disorderly house. (See *Bac. Ab. tit. Nuisances (a)*; 1 *Hawk. c. 75, s. 7*; "*Disorderly House*," Vol. I.)

It seems that players may be prosecuted as guilty of a nuisance in acting obscene plays. (*R. v. Curl*, 2 *Stra.* 790.)

If a person be told on entering a theatre that there is room, when in fact there is not, his proper course is to leave the theatre and demand the return of his money. He is not justified in getting into a private box or other part of the theatre, for the use of which he has not expressly paid; and if he does he is a trespasser, and the proprietor or his servants may remove him, using no more force than is necessary, and he cannot be imprisoned for such

an act; if, however, he commit a breach of the peace by striking any one in the presence of a constable, such constable may arrest him, (*Lewis v. Arnold*, 4 C. & P. 354); and if any other person be assisting in, or promoting such breach of the peace, he may also be arrested by the constable. (*Id.* See *ante*, "Arrest," Vol. I.)

Plea.

Plea or demurrer.

WHEN the indictment is found, the defendant may either plead to it, or demur. By pleading, he puts in issue the facts of the charge; by demurring, he admits the facts, and contends that they charge no offence indictable by law. See "Demurrer," Vol. I. as to demurrers.

Pleas in abatement.

Pleas are either in abatement or bar.

Pleas in Abatement may be for the omission of the addition of the defendant, under the statute of additions, or for misnaming him, &c. See "Abatement," Vol. I.

Pleas in bar.

Pleas in Bar are either special pleas, or the general issue. Special pleas may be of a previous conviction of the same offence, or a previous acquittal on a valid indictment, or of a pardon. See "Autrefois Convict," "Acquittal," "Autrefois Attaint," Vol. I., *ante*, "Pardon." Other special pleas are in practice confined to the cases of prosecutions for neglect of duty in repairing highways and bridges, when the parish indicted or presented for omitting to repair a highway, or the county indicted for omitting to repair a bridge, and desiring to throw the liability on some other party, must show that liability by specially pleading it. See "Highways in General," Vol. III. "Bridges," Vol. I.

The general issue.

The plea employed in the infinitely greater number of cases in which the charge is denied, both misdemeanors and felonies, is the general issue, *not guilty*. This plea not only casts on the prosecutor the burden of making out every part of his charge, but except in the instances of prosecutions for not repairing highways and bridges above alluded to, it entitles the defendant to give in evidence every possible ground of justification and excuse which can form an answer to the accusation.

7 & 8 Geo. 4, c. 28.

By the 7 & 8 Geo. IV. c. 28, s. 1, reciting that "trials for criminal offences in that part of the United Kingdom called England, are attended with some forms which frequently impede the due administration of justice, and it is, therefore, expedient to abolish such forms, and also to abolish the benefit of clergy, and to make better provision for the punishment of offenders in certain cases," it is enacted, "that if any person, not having privilege of peerage, being arraigned upon any indictment for treason, felony, or piracy, shall plead thereto a plea of 'not guilty,' he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court shall, in the usual manner, order a jury for the trial of such person accordingly."

A plea of "not guilty," without more, shall put the prisoner on his trial by jury.

If he refuses to plead, court may order a plea of "not guilty" to be entered.

Sect. 2. "If any person, being arraigned upon, or charged with, any indictment or information for treason, felony, piracy, or misdemeanor, shall stand mute of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the court, if it shall so think fit, to order the proper officer to enter a plea of 'not guilty' on behalf of such person; and the plea so entered shall have the same force and effect as if such person had actually pleaded the same."

(1.) Plea of general issue.

C. D. } And the said C. D., by _____, his attorney, comes, and, having at the suit of } heard the said indictment read to him, says that he is not guilty of the King. } the premises in the said indictment specified, above laid to his charge; and of this he, the said C. D., puts himself upon the country, &c.

In the King's Bench.

Term, Will. IV.

Form.

C. D. } And the said C. D. appears here in court by his
 at the suit of } attorney, and prays oyer of the said information, and it is read to
 the King. } him; which being by him heard and fully understood, he complains
 to have been grievously vexed and molested, under colour of the premises, and
 this the less justly, because protesting that the said information, and the matters
 therein contained, are insufficient in law, whereto he has no need, nor is he
 bound by the law of the land to answer; for plea, nevertheless, the said C. D.
 says, that he is not guilty of the said supposed offences in the said information
 mentioned, and thereby alleged to have been committed by him the said C. D.;
 and of this he, the said C. D., puts himself upon the country, &c.

(2.) Plea of general
 issue of information
 ex officio
 in King's Bench.

See form of Replication, post "**Replication.**" Of Rejoinder, post "**Rejoinder.**"

Pledge. See "**Larceny**" (by Factors, &c.) Vol. III. *Ante*,
 "**Pawning.**"

Poaching. See "**Game,**" Vol. II.

Poisoning. See "**Homicide,**" Vol. III.—As to Attempts to Poison,
 see "**Malicious Injuries to the Person,**" Vol. III.

Police of the Metropolis.

BY the 10 Geo. IV. c. 44, intituled "An act for Improving the Police in and near the Metropolis," reciting, "Whereas offences against property have of late increased in and near the metropolis; and the local establishments of nightly watch and nightly police have been found inadequate to the prevention and detection of crime, by reason of the frequent unfitness of the individuals employed, the insufficiency of their number, the limited sphere of their authority, and their want of connexion and co-operation with each other: and whereas it is expedient to substitute a new and more efficient system of police in lieu of such establishments of nightly watch and nightly police, within the limits hereinafter mentioned, and to constitute an office of police, which, acting under the immediate authority of one of his majesty's principal secretaries of state, shall direct and control the whole of such new system of police within those limits:" it is therefore enacted, "that it shall be lawful for his majesty to cause a new police-office to be established in the city of Westminster, and by warrant under his sign manual to appoint two fit persons as justices of the peace of the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and of all liberties therein, to execute the duties of a justice of the peace at the said office, and in all parts of those several counties, and the liberties therein, together with such other duties as shall be hereinafter specified, or as shall be from time to time directed by one of his majesty's principal secretaries of state, for the more efficient administration of the police within the limits hereinafter mentioned; and his majesty may remove either of the said justices, if he shall see occasion so to do, and may, upon

10 Geo. 4, c. 44.

His majesty may
 establish a new
 police-office for
 the metropolis
 and surrounding
 district, and may
 appoint two per-
 sons as justices, to
 conduct the busi-
 ness of the office,
 under directions
 of a secretary of
 state.

10 Geo. 4, c. 44.

Justices need not have any qualification of estate.

Proviso.

Oath to be taken by justices.

Salary of the justices.

Westminster, and parts of Middlesex, Surrey, and Kent, to be formed into one district to be called "The metropolitan Police District."

A police force for the whole district to be appointed.

Justices, subject to approbation of secretary of state, may make regulations for management of police force.

Police-men may be suspended or

any vacancy in the said office by death, removal, or otherwise, appoint another fit person as a justice of the peace of the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and of all liberties therein, to execute the duties aforesaid, in lieu of the person making such vacancy; and it shall be lawful for his majesty to appoint any person to be a justice of the peace by virtue of this act, and for such person, during the continuance of his appointment, to execute the duties of a justice of the peace for the several counties of Middlesex, Surrey, Hertford, Essex, and Kent, and for all liberties therein, although he may not have any such qualification by estate as is required by law in the case of any other person being a justice of the peace for any county: provided always, that no such person shall act as a justice of the peace at any court of general or quarter sessions, nor in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying into execution the purposes of this act."

Sect. 2. "Every person to be appointed a justice of the peace by virtue of this act shall, before he shall begin to execute the duties of his office, take the following oath before some justice or baron of one of his majesty's courts of record at Westminster; (that it to say,)

"I, A. B., do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a justice of the peace, under and by virtue of an act passed in the tenth year of the reign of King George the Fourth, intituled, 'An Act for Improving the Police in and near the Metropolis.'"

Sect. 3, "It shall be lawful for his majesty to direct that an annual salary, not exceeding the sum of eight hundred pounds, shall be paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to each of the justices to be appointed under this act, and that the same shall be payable quarterly." [See further, 3 Wil. IV. c. 19, s. 3, *post*, 226.]

Sect. 4. "The whole of the city and liberties of Westminster, and such of the parishes, townships, precincts, and places in the counties of Middlesex, Surrey, and Kent, as are enumerated in the schedule to this act, shall be constituted for the purposes of this act, into one district, to be called 'The Metropolitan Police District;' and a sufficient number of fit and able men shall from time to time, by the directions of one of his majesty's principal secretaries of state, be appointed as a police force for the whole of such district, who shall be sworn in by one of the said justices to act as constables for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn shall, not only within the said district, but also within the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and within all the liberties therein, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his constablewick by virtue of the common law of this realm, or of any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the said justices for conducting themselves in the execution of their office."

Sect. 5. "The said justices may from time to time, subject to the approbation of one of his majesty's principal secretaries of state, frame such orders and regulations as they shall deem expedient, relative to the general government of the men to be appointed members of the police force under this act; the places of their residence; the classification, rank, and particular service of the several members; their distribution and inspection; the description of arms, accoutrements, and other necessities to be furnished to them; and which of them shall be provided with horses for the performance of their duty; and all such other orders and regulations relative to the said police force, as the said justices shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said justices may at any time suspend or

dismiss from his employment any man belonging to the said police force whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and when any man shall be so dismissed, or cease to belong to the said police force, all powers vested in him as a constable by virtue of this act shall immediately cease and determine." 10 Geo. 4, c. 44.

dismissed by the justices.

Sect. 6. "If any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said police force, or permit such man to abide or remain in his house, shop, room, or other place during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as they shall think meet." Penalty on publicans harbouring police-men during hours of duty.

Sect. 7. "It shall be lawful for any man belonging to the said police force, during the time of his being on duty, to apprehend all loose, idle, and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, and all persons whom he shall find between sunset and the hour of eight in the forenoon lying in any highway, yard, or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended into the custody of the constable appointed under this act, who shall be in attendance at the nearest watch-house, in order that such person may be secured until he can be brought before a justice of the peace, to be dealt with according to law, or may give bail for his appearance before a justice of the peace, if the constable shall deem it prudent to take bail, in the manner hereinafter mentioned." Powers of police.

A police officer is not justified under this section in laying hold of and pushing along the highway, and ordering to be off, a person found by him conversing in a crowd with another, merely because the person with whom he happened to be conversing is known to be a reputed thief. (*Stocken v. Carter*, 4 Car. & P. 477—*Gaselee*, J.)

The provision of the now repealed act, 3 Geo. IV. c. 55, s. 21, was held only to apply to the apprehension of persons of general bad character, as rogues and vagabonds, and not to apprehension on suspicion of a felony. (*Cowles v. Dunbar*, 1 M. & M. 37; 2 C. & P. 565, S. C.) The above provision in the 10 Geo. IV. c. 44, s. 7, seems more extensive. (See "Arrest," Vol. I.; and see further 3 W. IV., c. 19, s. 31, &c., *post*, 236.)

Sect. 8. "If any person shall assault or resist any person belonging to the said police force in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being convicted thereof before two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said justice shall think meet." (See further "Assault," Vol. I.) Assaults on police-men.

Sect. 9. "Where any person charged with any petty misdemeanor shall be brought, without the warrant of a justice of the peace, into the custody of any constable appointed under this act, during his attendance in the night-time at any watch-house within the metropolitan police district, it shall be lawful for such constable, if he shall deem it prudent, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination before a justice of the peace, at some place to be specified in the recognizance, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a Sunday or on Christmas-day or Good Friday, and in that case at the like hour on the succeeding day; and every recognizance so taken shall be equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a justice of the peace; and the constable shall enter, in a book to be kept for that purpose in every watch-house, the names, residence, and occupation of the party, and his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present Constables attending at watch-houses in night may take bail from persons brought before them for petty misdemeanors; recognizance to be conditioned for appearance of parties before a magistrate.

10 Geo. 4, c. 44.

In default of appearance recognizance to be forfeited.

Time of hearing may be postponed.

His majesty may appoint a person to be the receiver of all monies applicable to the purposes of this act, who shall give security.

The money to be placed in the Bank of England, and drawn out by the receiver.

Receiver's drafts to be countersigned.

Receiver's accounts to be audited.

Salary of receiver.

at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognizance to be drawn up, to be signed by the constable, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained; and the clerk of the peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply, by any person on his behalf, to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such farther time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the appearance of the party before a justice shall be discharged without fee or reward."

Sect. 10. "It shall be lawful for his majesty to appoint a proper person to receive all sums of money applicable to the purposes of this act, who shall be called 'The Receiver for the Metropolitan Police District;' and his majesty may remove any such receiver, if he shall see occasion so to do, and may upon any vacancy in that office, by death, removal, or otherwise, appoint another person to be such receiver; and the receiver for the time being shall give security to his majesty, in a bond, with two sureties, in such sum as the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland shall direct, such bond to be conditioned for the faithful performance of his duty by such receiver, and for the due application of all monies paid to him under this act; and the receiver for the time being shall receive all sums of money applicable to the purposes of this act, and shall keep an exact and particular account thereof, and shall immediately pay all monies, bills, and notes by him received under this act into the hands of the governor and company of the Bank of England; and the same shall be placed to an account in the books of the said governor and company, which shall be entitled, 'The Account of the Public Monies of the Receiver for the Metropolitan Police District,' inserting the name of the receiver for the time being; and the said receiver shall draw out of the Bank from time to time such sums of money as may be necessary for the payment of the salaries, wages, and allowances to be paid as hereinafter mentioned to the persons belonging to the police force appointed under this act, and also for the payment of all other charges and expenses in carrying this act into execution; and every draft or order for money on the Bank of England drawn by the receiver shall be countersigned by one of the justices appointed under this act; and all drafts and orders so drawn and countersigned, but not otherwise, shall be a sufficient authority to the Bank to pay the amount thereof to the persons named in them, or to the bearers of them." [See further as to the receiver, 3 Wil. IV. c. 19, s. 14, &c., *post*, 229.]

Sect. 11. "The receiver shall account for the due application of all monies so to be drawn by him out of the Bank of England and shall, once in every six months, and oftener, if required by one of his majesty's principal secretaries of state, make out and sign a full and particular account of all monies which shall have been received by him under this act, and how much thereof hath been paid by him, and for what purposes, together with proper vouchers for the receipts and payments; and such account shall be delivered, for the purpose of being examined and audited, either to the commissioners for auditing the public accounts of this kingdom, or to any other person or persons whom such principal secretary of state may from time to time direct; and the receiver, if directed to account before the said commissioners, shall be subject to the same regulations and penalties in that respect as any public accountant."

Sect. 12. "The receiver, out of the monies so received by him, shall be allowed a yearly salary not exceeding seven hundred pounds, to be payable quarterly; and the receiver, out of the same monies, shall from time to

time pay to the persons belonging to the police force appointed under this act, such salaries, wages, and allowances, and at such periods, as one of his majesty's principal secretaries of state shall direct, and also any extraordinary expenses which they shall appear to have necessarily incurred in apprehending offenders and executing the orders of either of the justices appointed under this act, such expenses being first examined and approved of by one of the said justices; and the receiver shall likewise pay any further sums which such principal secretary of state shall direct to be paid to any of the persons belonging to the said police force, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service; and he shall also pay all other charges and expenses which such principal secretary of state shall direct to be paid for carrying this act into execution." [See further the 3 Wil. IV. c. 19, s. 4, *post*, 226.]

10 Geo. 4, c. 44.

Salaries and wages of policemen to be regulated by secretary of state.

Rewards for activity, and superannuation allowances.

Sect. 13. "Upon the death, resignation, or removal of any receiver appointed under this act, the balance of cash for which he shall at that time have credit on his account, as receiver, with the governor and company of the Bank of England, shall, as soon as a successor shall be appointed to the office of receiver, actually vest in such successor, and shall be immediately transferred to the account of such successor, to be applied for the purposes of this act; and the receiver for the time being is hereby required to issue his drafts or orders, countersigned as aforesaid, for all unsatisfied charges and demands payable out of the monies in the Bank, although the same shall have accrued in the time of any former receiver."

Upon death or removal of receiver, balance of cash at the Bank shall be transferred to his successor.

Sect. 14. "If any person having resigned or having been removed from the office of receiver, shall neglect, within twenty-one days after notice for such purpose, to account for and pay to any succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this act, it shall be lawful for the receiver for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person, with double costs of suit, in any of his majesty's courts of record at Westminster, by action of debt; in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this act; and the defendant in the action may, at the discretion of any judge of such court, be held to special bail in such competent sum as the judge shall order; and the court in which the action shall be brought may, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer); and upon the report of such referee, unless either of the parties shall show good cause to the contrary, the court may make a rule, either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the court shall appear reasonable; or the court may order judgment to be entered up by confession, for such sum as upon the report shall appear to be due." [See further 3 Wil. IV. c. 19, s. 16, *post*, 230.]

Upon removal of receiver, his successor may sue for any balance remaining in his hands.

Mode of proceeding.

Special bail.

Court may refer accounts to an officer or arbitrator.

Sect. 15. "In case of the death of any person during the time that he shall be holding the office of receiver, or after he shall have resigned or been removed from such office, the receiver for the time being may, in his own proper name only, or by his name and description of office, sue for and recover from the executors or administrators of such person deceased, all such sums of money as shall have been remaining in his hands applicable to the purposes of this act, by an action of debt in any of his majesty's courts of record at Westminster; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this act, or that the deceased died possessed of money had and received for the purposes of this act, whereby an action hath accrued to the plaintiff to demand and have

Mode of proceeding against representatives of deceased receiver.

10 Geo. 4, c. 44.

Proof of receiver's official character.

Receiver shall contract for any land or buildings that may be required.

Property to be vested in him.

Corporations and others empowered to sell land to the receiver.

In case of disagreement, &c. the value shall be assessed by a jury.

the same from such executors or administrators; and the like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence, as in any action founded upon simple contracts of the original testator or intestate; and the court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as is hereinbefore mentioned; and in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on, by any receiver by virtue of this act, proof of his acting in the execution of the office of receiver shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted or carried on." [See further 3 Wil. IV. c. 19, s. 17, *post*, 231.]

Sect. 16. "The receiver for the time being shall make all such contracts and disbursements as shall be necessary for purchasing or renting any land or buildings, or for erecting, fitting up, furnishing, or repairing any buildings, for the purposes of this act, in such manner as one of his majesty's principal secretaries of state shall direct; and of all lands and buildings so to be purchased or rented, and of the fixtures and furniture thereof, and of all goods and chattels whatsoever to be from time to time held or purchased for the purposes of this act, the property acquired therein shall be vested in the receiver for the time being, in whom also shall be vested the property of all watch-houses, watch-boxes, arms, accoutrements, and other necessities to be given up as hereinafter mentioned; and the receiver for the time being may, by the directions of such principal secretary of state, sell, assign, or dispose of the whole or any part of any such property as aforesaid, and shall execute all such lawful matters for carrying this act into execution as such principal secretary of state shall from time to time direct."

Sect. 17. "It shall be lawful for all bodies corporate, and also for all commissioners, vestrymen, or trustees for public purposes, and for tenants for life or in tail, and for the husbands, guardians, trustees, committees, or attorneys of such of the proprietors or persons interested in any lands or buildings required for the purposes of this act as shall by reason of any legal disability or of absence beyond the seas be incapable of acting for themselves, to contract and agree with the receiver for the time being, either for the absolute sale of such lands or buildings, or for a lease thereof for such period as the receiver shall require, and to convey, demise, or grant the same to the receiver in trust for the purposes of this act; and all such contracts, sales, conveyances, leases, and grants shall be valid and effectual in law to all intents and purposes; and in case any body corporate, commissioners, vestrymen, trustees, or other persons hereby authorized to contract on behalf of themselves or others as aforesaid, shall neglect or refuse to agree with, or by reason of disability or absence shall be prevented from agreeing with the receiver for the sale or lease of any lands or buildings required by him, or in case the proprietors or persons interested therein cannot be found or known, or shall not produce and evince a clear title to the land or buildings so to be purchased or rented, or to the interest they shall claim therein, to the satisfaction of the receiver, in every such case all the provisions contained in an act passed in the fifth year of his present majesty's reign, intituled 'An Act for more effectually paving, lighting, watching, cleansing, and regulating the Regent's Park, together with the New Street from the Regent's Park to Pall Mall, and the New Streets and Improvement in the Neighbourhood of Parliament Street and Privy Gardens, and for maintaining a convenient Sewage for the same,' with regard to the valuation of estates and interests by a jury, the conclusive effect of the verdict of the jury, and all matters preparatory to, concomitant with, and consequent or contingent upon, the valuation by a jury, shall, so far as the same are or can be applicable, be applied and extended to the valuation of any land or buildings required for the purpose of this act, in

as full and ample a manner, to all intents and purposes, as if those provisions had been repeated and expressly re-enacted in this act; and all such matters as by those provisions of the said act are authorized or required to be done by the sheriff of Middlesex and by a jury of Middlesex, or by the high bailiff of Westminster or his deputy and by a jury of Westminster, shall, under this act, be done by a sheriff and a jury of Middlesex, if the premises to be valued are situate in Middlesex, and by the high bailiff or his deputy and a jury of Westminster, if the premises are situate in Westminster; and all such matters as by those provisions of the said act are authorized or required to be done by the sheriff and a jury of the county of Middlesex, shall, if the premises to be valued are situate in any other county, be done under this act by the sheriff of such other county and by a jury qualified to try causes at nisi prius in such other county; and all such matters as by those provisions of the said act are authorized or required to be done by the commissioners therein mentioned shall, under this act, be done by the receiver for the time being."

Sect. 18. "No justice of the peace or receiver appointed by virtue of this act shall, during the continuance of such appointment, be capable of being elected, or of sitting as a member of the House of Commons; and no justice, receiver, or person belonging to the police force appointed by virtue of this act shall, during the time that he shall continue in any such office, or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in parliament for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the metropolitan police district, nor shall, by word, message, writing, or in any other manner endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to be a member to serve in parliament for any such county, city, or borough; and if any such justice, receiver, or person belonging to the police force shall offend therein, he shall forfeit the sum of 100*l.*, to be recovered, by any person who will sue for the same, by action of debt, to be commenced within six calendar months after the commission of the offence; and one moiety of the sum so recovered shall be paid to the informer, and the other moiety thereof to the receiver appointed under this act, to be by him added to and applied as part of the funds for the purposes of the police under this act: provided always, that nothing in this enactment contained shall subject any such justice, receiver, or person belonging to the police force, to any penalty for any act done by him at or concerning any of the said elections in the discharge of his official duty." [See further the 3 Wil. IV. c. 19, s. 19, *post*, 231.]

No justice, &c. under this act to sit in parliament.

No justice, receiver, policeman, &c. appointed under this act, to vote at certain elections.

Penalty 100*l.*

Proviso.

By sect. 19. The present watch in each parish, &c. in metropolitan districts, shall continue until it shall be notified to such parish that the new police is appointed, and then all watch-boxes, arms, &c. shall be given up to the new police, and the present watch-rate shall cease. A penalty is imposed for not giving up watchboxes, &c.

Sect. 20. "Any rate for defraying the expenses of the night watch or night police in any parish, township, precinct, or place, made previous to the day on which the police force to be appointed under this act shall undertake the charge thereof, shall be levied and collected in the same manner as if this act had not been passed:" it provides also, "that nothing herein contained shall be deemed to affect or alter any powers or authorities for assessing and levying any rate in any such parish, township, precinct, or place, so far as such rate may relate to paving, lighting, cleansing, or any other object, except the night watch, night police, or any expenses incident thereto."

Proviso for watch-rates already imposed.

This act not to affect the rates for paving, lighting, &c.

Sect. 21. "And whereas there are certain parishes, townships, precincts, and places in the metropolitan police district, in which monies have been borrowed or advanced, and debts contracted for the building of watch-houses, and for various expenses connected with the night watch and night police therein, and such monies and debts remain unpaid, and it is expedient that the same should be discharged:" it is enacted, "that all such

Provision for outstanding debts.

10 Geo. 4, c. 44.

Power to set up watch-boxes.

Overseers in metropolitan district shall be ordered to levy a police rate upon all persons liable to poor rate.

Not to exceed 8d. in the pound in any one year, according to the valuation for county rate.

Who to be deemed overseers within this act.

Overseers shall collect police rate in same manner as poor rate.

Receipt of receiver shall be a sufficient discharge.

monies and debts in any parish, township, precinct, or place, of which the police to be appointed under this act shall undertake the charge, shall, notwithstanding any thing hereinbefore contained, be chargeable upon the rates out of which such monies or debts have been heretofore in part paid, or would have been payable if this act had not been passed; and such rates shall be from time to time assessed and levied for the payment of such monies and debts, until the same shall be entirely discharged and satisfied."

Sect. 22. "The justices appointed under this act, subject to the approbation of one of his majesty's principal secretaries of state, may order such a number of watch-boxes as they shall from time to time think fit to be placed or fixed in such parts of the highways in any of the parishes, townships, precincts, or places within the metropolitan police district, as the said justices shall deem most convenient."

Sect. 23. "As soon as the police to be appointed under this act shall take charge of any parish, township, precinct, or place, whether parochial or extra-parochial, within the metropolitan police district, it shall be lawful for the justices appointed under this act forthwith, and so from time to time, subject to the approbation of one of his majesty's principal secretaries of state, to issue a warrant under their hands to the overseers of the poor of every such parish, township, precinct, or place; by which warrant they shall command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or place, to pay the amount mentioned in the warrant for the purposes of the police under this act, or to levy such amount as a part of the rate for the relief of the poor in such parish, township, precinct, or place, and that the overseers shall pay over the amount mentioned in the warrant, to the receiver to be appointed under this act, within forty days from the delivery of such warrant to any one of the overseers: provided always, that the sum to be paid for the purposes of the police under this act shall not exceed in the whole in any one year the rate of eightpence in the pound on the full and fair annual value of all property rateable for the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate; and that the warrant shall specify the rate in the pound at which the sum mentioned therein shall be computed." [See the provisions of 3 & 4 Wil. IV. c. 89, *post*. As to who are liable to the poor rate, see "**Poor**," Vol. IV.]

Sect. 24. "Where any persons other than the overseers of the poor shall, by virtue of any office or appointment, be authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish, township, precinct, or place within the metropolitan police district, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this act, and to be included under and denoted by the words 'overseers of the poor,' for all the purposes of this act, as fully as if they were commonly called or known by the title of overseers of the poor."

Sect. 25. "The overseers of the poor of every parish, township, precinct, or place within the metropolitan police district, to whom any such warrant as aforesaid shall be issued, shall pay the amount mentioned in the warrant out of any money in their hands collected for the relief of the poor; and if there be no such money in their hands, or an insufficient sum, they shall levy the amount required as a part of the rate for the relief of the poor, and shall for that purpose proceed in the same manner, and have the same powers, remedies, and privileges as for levying money for the relief of the poor; and such overseers shall pay to the receiver the amount mentioned in the warrant within the time specified for that purpose, and at the time of making any payment to the receiver shall deliver to him a note in writing signed by them, specifying the amount so paid, which note shall be kept by the receiver as a voucher for his receipt of that particular amount; and the receipt of the receiver, specifying the amount paid to him by the overseers shall be a sufficient discharge to the overseers for such amount, and shall be

allowed as such in passing their accounts with their respective parishes, townships, precincts, or places." [See as to the collection of the poor rate, title "~~P~~oor," Vol. IV.]

10 Geo. 4, c. 44.

Sect. 26. "In case the amount ordered by such warrant as aforesaid to be paid by the overseers in any parish, township, precinct, or place in the metropolitan police district, shall not be paid to the receiver within the time specified for that purpose in the warrant, the justices appointed under this act, upon complaint thereof made to them by the receiver, may issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish, township, precinct, or place for the purposes of the police under this act, and shall be collected by the like methods; and the said justices, in case of any default or neglect of any overseer or overseers, or in any other case in which one of his majesty's principal secretaries of state shall so direct, may appoint two or more persons to act as overseers of the poor within any parish, township, precinct, or place in the metropolitan police district, for levying the money for the purposes of the police under this act; and the persons so appointed shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such money, as if they had been appointed overseers of the poor by virtue of any law or laws now in force."

Overseers, on non-payment of police rate, shall be distrained upon;

and in default of sufficient distress, arrears may be levied on parish.

In case of default, &c. occasional overseers may be appointed for levying police rate.

Sect. 27. "Where any messuages, lands, tenements, or hereditaments within the metropolitan police district shall be occupied by any ambassador, agent, or other public minister of any foreign prince or state, or by the servant of any such ambassador, agent, or minister, or by any other person not liable by law to the payment of the poor's rate, all such money as would by virtue of this act have been payable for the purposes of the police by the occupier of such messuages, lands, tenements, or hereditaments, if such occupier had been rateable to the relief of the poor, shall in such case be paid by and recoverable from the landlord or owner thereof, who shall for this purpose be deemed the occupier thereof, and shall be liable to all such proceedings for non-payment of such money as any person is by law liable to for non-payment of poor rate."

In property occupied by ambassadors, landlords shall pay police rate.

Sect. 28. "Any justice appointed under this act, or any person having an order for that purpose under the hand of any such justice, may inspect any county rate made or to be made for any county, any part of which shall be situate within the metropolitan police district, and may also inspect any returns concerning all or any of the parishes, townships, precincts, and places, whether parochial or extra-parochial in the said district, delivered or to be delivered in pursuance of any of the acts relating to county rates, and may take copies or extracts from any such rates or returns without payment of any fee or reward; and if any person having the custody of any such rate or return shall wilfully neglect or refuse to permit any such justice or other person to inspect the same, or to take copies or extracts from the same, within two days after such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding ten pounds, as they shall think meet."

Right of inspecting county rates, &c.

Sect. 29. "An account of all monies received and expended for the purposes of this act, made up to the 31st of December in each year, shall annually be laid before both Houses of Parliament within thirty days thereafter, if Parliament be then sitting, or within thirty days after the first meeting of Parliament subsequent to the 31st of December, and such account shall specify the total sum charged upon and received from every parish, township, precinct, and place for the purposes of this act, the rate in the pound at which such sum shall have been computed, and the total annual value of the entire property in every such parish, township, precinct,

Accounts to be laid before Parliament annually.

10 Geo. 4, c. 44.

Provision for assessing and levying police rate in those places within the metropolitan district where there is no poor rate.

Mode of making the assessment.

Allowance to assessors.

When assessment is made, notice thereof shall be given, and all persons included in the assessment shall have liberty to inspect it, &c.

Penalty for refusing such inspection.

Collection of the police rate charged in such assessment.

Appeal against assessment.

and place, as such total annual value shall be stated in the last valuation for the time being acted upon in assessing the county rate; and such account shall also specify the different heads of expenditure for the purposes of the police, and the amount actually expended under each."

Sect. 30. "And whereas it is expedient to provide for those precincts and places in the metropolitan police district in which no rate is made for the relief of the poor, or in which property may be deemed not to be rateable thereto: it is enacted, "that the respective inhabitants and occupiers of all messuages, lands, tenements, and hereditaments in any precinct or place, whether parochial or extra-parochial, in the metropolitan police district, although such messuages, lands, tenements, and hereditaments may not be rated to the relief of the poor, or may be deemed not to be rateable thereto, shall nevertheless be liable to contribute to the expenses of the police under this act, as if the property so inhabited or occupied were rateable and rated to the relief of the poor; and the justices appointed under this act may from time to time, by warrant under their hands, appoint a proper person to be an assessor, for the purpose of assessing the full and fair annual value of such property, and rating the same to a police rate to be levied under this act: provided always, that the sum to be levied as a police rate shall not exceed in the whole in any one year the rate of eightpence in the pound on the full and fair annual value of such property; and such assessor shall, within forty days after the delivery to him of the warrant of his appointment, make, sign, and return to the said justices an assessment for the precinct or place named in such warrant; and the assessment shall be fairly written in a book, and shall specify, in different columns, the names of the respective inhabitants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of police rate charged on the inhabitants or occupiers thereof, and, when the premises shall be unoccupied, the full and fair annual value thereof to let; and every such assessor shall be allowed for his trouble and expenses such remuneration as one of his majesty's principal secretaries of state shall direct, and the same shall be paid out of the amount of the police rate which shall be collected after such assessment."

Sect. 31. "When such assessment shall have been allowed by the justices appointed under this act, public notice of such assessment, and of the place where the same may be inspected, shall be given by fixing such notice on the door of the church or chapel, or some other conspicuous part of the precinct or place to which such assessment shall relate, upon the Sunday next or next but one after the same shall have been so allowed; and any person in whose custody such assessment may be shall permit every inhabitant or occupier of property included in such assessment to inspect the same, and to make any extracts therefrom, without payment of any fee or reward; and if such person shall wilfully neglect or refuse to permit any such inhabitant or occupier to inspect such assessment, or to make any extract therefrom, he shall, on conviction thereof, before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding five pounds, as the justices shall think meet."

Sect. 32. "The justices appointed under this act shall from time to time nominate one or more person or persons for levying the amount of police rate charged in every such assessment, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such police rate, as if he or they were an overseer or overseers of the poor in a precinct or place rated to the relief of the poor, and shall pay over the amount of such police rate to the receiver to be appointed under this act, or, in default thereof, shall be proceeded against in the same manner as overseers are by this act to be proceeded against for non-payment."

Sect. 33. "If any person, who shall have paid the amount of police rate charged upon him by the assessment made by an assessor appointed under this act, shall think himself aggrieved by such assessment, on the

ground that such assessment includes any property for which he is not rateable under this act, or that it assesses his rateable property beyond its full and fair annual value, or that any person or persons is or are omitted out of such assessment, or that the property of any person or persons is assessed below its full and fair annual value, the person so aggrieved may appeal to the next court of general or quarter sessions which shall be holden for the county in which the cause of appeal shall have arisen, not less than twenty-one days after public notice of such assessment shall have been given, as hereinbefore mentioned: provided that the person so intending to appeal shall give to the receiver to be appointed under this act a notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such sessions; and shall also, within three days after his notice of appeal, enter into a recognizance before some justice of the peace of the county, with two sufficient sureties, conditioned to try such appeal at the said sessions, and to abide the order of the court thereupon, and to pay such costs as shall be by the court awarded; and, in case such person shall appeal on the ground that any person or persons is or are omitted out of the assessment, or that the property of any person or persons is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the receiver, and enter into such recognizances as aforesaid, but shall also give a like notice of appeal to the person or persons so interested in the event of such appeal, as aforesaid, and shall enter into a like recognizance within the times hereinbefore respectively mentioned; and the person or persons so interested shall, if he or they shall desire it, be heard upon the appeal; and the justices of the peace at such sessions, or some adjournment thereof, upon due proof of the notice having been given, and of the recognizance having been entered into, as aforesaid, shall hear and determine the matter of the appeal in a summary manner, and shall make such order therein, with or without costs to either party, as the said justices shall think proper; and, in case the said justices shall think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and, in case he shall have appealed on the ground that any person or persons is or are omitted out of the assessment, the said justices may order the name or names of such person or persons to be inserted in the assessment, and to be therein rated at such amount as they shall deem just; and, in case the appellant shall have appealed on the ground that the property of any person or persons is assessed below its full and fair annual value, the said justices may order the amount at which such person or persons is or are rated in the assessment to be altered in such manner as they shall deem just; and the proper officer of the court shall, in each of the cases aforesaid, forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein; and the determination of the justices at any such sessions or adjournment shall be final and conclusive." [By 3 & 4 Wil. IV. c. 89, *post*, money may be issued out of the consolidated fund in support of the metropolitan police.]

Assessment may be altered to relieve appellant, without altering any other part of it.

Consolidated fund act.

His majesty may hereafter, by order in council, direct any parishes within a certain distance of metropolis to be added to the district; and such parishes, when so added, shall be subject to this act.

Sect. 34. "And whereas circumstances may occur which may render it expedient that the provisions of this act should be extended to other places, in addition to the places which are enumerated in the schedule to this act:" be it therefore enacted, "that it shall be lawful for his majesty from time to time, by the advice of his privy council, to order that any parishes, townships, precincts, and places, whether parochial or extra-parochial, in the counties of Middlesex, Surrey, Hertford, Essex, and Kent, of which any part shall be situate within twelve miles of Charing Cross, in the city of Westminster, shall, after a certain day to be named in such order, be added to and form part of the metropolitan police district, and be placed under the charge of a police to be appointed under this act; and all provisions hereinbefore contained, with regard to the discontinuance of the night-watch and night-police appointed previously to or independently of this act.

10 Geo. 4, c. 44.

the cessation of their powers, the cessation of the powers for levying watch rates, the giving up of watch-houses, or parts of buildings used as watch-houses, watch-boxes, arms, accoutrements, and other necessities, together with the penalties for neglect or refusal in that behalf, the exception as to any watch rate previously made, and the power to assess and levy rates for debts previously incurred, and also all provisions hereinbefore contained with regard to the levying of money for the purposes of the police, the levying thereof as a part of the poor's rate, the amount of such levy, the payment thereof to the receiver, the proceedings against overseers for default, the addition of arrears to the next levy, the appointment of persons to act as overseers, and all provisions with regard to the assessment of property, and the rating of the same to a police rate by assessors appointed under this act, and with regard to the powers and duties of such assessors, as well as all other matters whatsoever previous to, concomitant with, or consequent or contingent upon, such assessment, shall apply and be enforced in every parish, township, precinct, and place, which shall by order in council be added to the metropolitan police district, as fully and effectually as if such parish, township, precinct, or place, had been originally included in such district by virtue of this act."

Misnomers not to affect the execution of the act.

Sect. 35. "No misnomer or inaccurate description of any parish, township, precinct, or place, mentioned in the schedule to this act, or in any order in council to be made as aforesaid, shall prevent or in anywise affect the execution of this act, but that this act and every part thereof shall apply and be enforced in every such parish, township, precinct, and place, as fully and effectually, to all intents and purposes, as if the same had been correctly named and described in such schedule or order in council, provided that the same be designated therein to common intent and understanding; and united parishes shall, for all the purposes of this act, be deemed to be included under and denoted by the word 'parish.'"

Summons, &c. for offences punishable on summary conviction under this act.

Sect. 36. "And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this act, be it enacted, that where any person shall be charged, on the oath of a credible witness, with any such offence before any justice of the peace, the justice may summon the person charged to appear before any two justices of the peace, at a time and place to be named in such summons; and if the person charged shall not appear accordingly, then (upon proof of the due service of the summons, by delivering a copy thereof to such person, or by delivering a copy to the wife or servant, or some inmate of the family of such person, at his usual place of abode,) the justices before whom he ought to have appeared may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person, and bringing him before them: provided always, that the prosecution for any offence punishable upon summary conviction, by virtue of this act, shall be commenced within three calendar months after the commission of the offence, and not otherwise."

Limitation of time for such proceedings.

Application of penalties.

Sect. 37. "Every sum which by any justices of the peace shall be adjudged to be paid for any offence against this act shall be paid to the receiver appointed under this act, to be by him added to and applied as part of the funds for the purposes of the police under this act; and no person, although liable to the payment of money for the maintenance of the police under this act, shall, by reason thereof, or by reason of the application of any penalty to the use of the police funds, be deemed to be an incompetent witness before any court or justice or justices of the peace in any proceeding whatever for any offence against this act, or in any matter relating to the money to be raised for the maintenance of the police, or in any other matter mentioned in this act; and no justice of the peace shall be disabled from acting in the execution of this act by reason of his being liable to the payment of any money for the maintenance of the police under this act."

Persons paying police rate may give evidence or act as justices.

Scale of imprisonment for non-payment of penalties.

Sect. 38. "The justices of the peace, by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this act, may adjudge that such person shall pay the same, either immediately or within such period as they shall think fit; and that in default of payment

at the time appointed, he shall be imprisoned in the common gaol or house of correction for any term not exceeding two calendar months, where the sum to be paid shall not exceed five pounds, and for any term not exceeding four calendar months, where the sum shall not exceed ten pounds, and for any term not exceeding six calendar months in any other case; the imprisonment to cease in each of the cases aforesaid upon payment of the sum due."

10 Geo. 4, c. 44.

Sect. 39. "The justices before whom any person shall be summarily convicted of any offence against this act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case may require; that is to say,

Form of conviction.

"Be it remembered, that on the day of in the year of our to wit. Lord , at , in the county of , A. B. is convicted before us [naming the justices], two of his majesty's justices of the peace for the said county, for that he the said A. B. did [specify the offence, and the time and place when and where the same was committed, as the case may be]; and we the said justices adjudge the said A. B., for his said offence, to forfeit and pay the sum of [here state the amount of the sum to be paid]; and in default of immediate payment of the said sum, to be imprisoned in the for the space of , unless the sum shall be sooner paid; [or, and we order that the said sum shall be paid by the said A. B. on or before the day of ; and in default of payment on or before that day, we adjudge the said A. B. to be imprisoned in the for the space of , unless the said sum shall be sooner paid]; and we direct that the said sum shall be paid to , the receiver for the Metropolitan Police District, to be by him applied according to the act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled, 'An Act for improving the Police in and near the Metropolis.' Given under our hands this day and year first above mentioned."

Sect. 40. "No conviction, order, warrant, or other matter, made or purporting to be made by virtue of this act, shall be quashed for want of form, or be removed by certiorari or otherwise into any of his majesty's courts of record at Westminster; and no warrant of commitment shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto: nor shall the party distraining be deemed a trespasser *ab initio*, on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage, if any, in an action upon the case."

No certiorari, &c.

As to informality in warrants, commitment, &c.

Trespasser *ab initio*.

Sect. 41. And for the protection of persons acting in the execution of this act, it is enacted "that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this act (a) shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action, after issue joined, or if, upon demurrer or otherwise, judgment shall be

Venue in proceedings against persons acting under act;

Limitation of action.

Notice of action;

General issue;

Tender of amends, &c.

(a) Under this clause, a police officer, &c., would be entitled to notice of action. (See *Butler v. Ford*, 1 C. & M. 662.)

10 Geo. 4. c. 44.
Costs.

This act not to
supersede 3 Geo.
4, c. 55, or 6 Geo.
4, c. 21.

Act may be al-
tered this session.

Public act.

given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be had shall certify his approbation of the action and of the verdict obtained thereupon" (a).

Sect. 42. "Nothing in this act contained shall affect or alter the 3 Geo. IV. c. 55, & 6 Geo. IV. c. 21." [But see now the 3 Wil. IV. c. 19, which repeals these acts, *post*, 225.]

Sect. 43. "This act may be amended, altered, or repealed by any act to be passed in the present session of Parliament."

Sect. 44. "This act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded."

SCHEDULE to which this Act refers.

A List of the Parishes, Townships, Precincts, and Places referred to by the Act as constituting "The Metropolitan Police District."

COUNTY OF MIDDLESEX.

City and Liberties of Westminster.

The parishes of St. Margaret and St. John the Evangelist.

The parish of St. Martin in the Fields.

The parish of St. George, Hanover Square.

The parish of St. James.

The parish of St. Mary-le-Strand, as well within the Liberty of Westminster as within the Duchy Liberty.

The parish of St. Clement Danes, as well within the Liberty of Westminster as within the Duchy Liberty.

The parish of St. Paul, Covent Garden.

The parish of St. Ann, in the Liberty of Westminster.

Whitehall Gardens, whether the same be Parochial or Extra-parochial.

Whitehall, whether the same be Parochial or Extra-parochial.

Richmond Terrace, whether the same be Parochial or Extra-parochial.

The Close of the Collegiate Church of St. Peter.

Holborn Division.

The parishes of St. Giles in the Fields and St. George, Bloomsbury.

The parishes of St. Andrew, Holborn, and St. George the Martyr.

The liberty of Saffron Hill, Hatton Garden, and Ely Rents.

The liberty of the Rolls.

The parish of St. Pancras.

The parish of St. John, Hampstead.

The parish of St. Mary-le-Bone.

The parish of Paddington.

The precinct of the Savoy.

Finsbury Division.

The parish of St. Luke.

The liberty of Glasshouse Yard.

The parish of St. Sepulchre.

The parish of St. James, Clerkenwell, including both districts of St. James and St. John.

The parish of St. Mary, Islington.

The parish of St. Mary, Stoke Newington.

The Charter House.

Tower Division.

The parish of St. Mary, Whitechapel.

The parish of Christchurch.

The parish of St. Leonard, Shoreditch.

The liberty of Norton Folgate.

The parish of St. John, Hackney.

The parish of St. Matthew, Bethnal Green.

The hamlet of Mile End Old Town.

The hamlet of Mile End New Town.

The parish of St. Mary, Stratford, Bow.

The parish of Bromley St. Leonard.

The parish of All Saints, Poplar.

The parish of St. Ann, Limehouse.

The hamlet of Ratcliffe.

The parish of St. Paul, Shadwell.

The parish of St. George in the East.

The parish of St. John, Wapping.

The liberty of East Smithfield.

The precinct of St. Catherine.

The Liberty of His Majesty's Tower of London, consisting of

The liberty of the Old Artillery Ground.

(a) A judge has no power under the 3 & 4 Wil. IV. c. 42, s. 32, to certify to deprive a police officer of his costs who is a defendant in an action, and obtains a

verdict, as that statute does not repeal the above enactment, which gives police officers costs absolutely. (*Humphrey v. Woodhouse*, 1 *Hodges*, 64.)

The parish of Trinity, Minories.
The Old Tower precinct.
The precinct of the Tower Within.
The precinct of Welleclose.

Kensington Division.

The parish of Kensington.
The parish of St. Luke, Chelsea.
The parish of Fulham.
The hamlet of Hammersmith.
The parish of Chiswick.
The parish of Ealing.
The parish of Acton.

Brentford Division.

The township of New Brentford.

Extra-parochial Places.

Lincoln's Inn.
Gray's Inn.
Staple's Inn.
That part of Furnival's Inn in the County
of Middlesex.
Ely Place.

KENT.

The parish of St. Paul, Deptford.

The parish of St. Nicholas, Deptford.
The parish of Greenwich.

SURREY.

The parish of Barnes.
The parish of Battersea.
The hamlet of Penge.
The parish of Bermondsey.
The parish of Camberwell.
The parish of Clapham.
The parish of Lambeth.
The parish of Newington.
The parish of Putney.
The parish of Rotherhithe.
The parish of Streatham.
The parish of Tooting.
The parish of Wandsworth.
The parish of Christchurch.
Clink liberty.
The hamlet of Hatcham, in the parish of
Deptford.

BOROUGH OF SOUTHWARK.

The parish of St. George.
The parish of St. Saviour.
The parish of St. John.
The parish of St. Olave.
The parish of St. Thomas.

10 Geo. 4, c. 14.

By 3 Wil. IV. c. 19, intituled "An Act for the more effectual Administration of Justice in the Office of a Justice of the Peace in the several Police Offices established in the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Three Years"—[18 June 1833], reciting, "Whereas it is expedient to consolidate and amend the several acts now in force for the more effectual administration of justice in the office of a justice of the peace in the several police offices established in the metropolis, and for the more effectual prevention of depredations on the river Thames and its vicinity," it is enacted, "That the several police offices now established in the parishes of St. Margaret Westminster, St. James Westminster, St. Mary-le-bone, St. Andrew Holborn, St. Leonard Shoreditch, St. Mary Whitechapel, and St. John of Wapping, in the county of Middlesex, and St. Saviour in the county of Surrey, shall be continued; and that the several persons appointed to execute the duties of a justice of the peace at the police offices now established shall continue to execute the same at the said police offices, together with any other justice of the peace for the counties of Middlesex and Surrey respectively who may think proper to attend thereat; and that it shall be lawful for his majesty, his heirs and successors, in case of a vacancy by death or otherwise, to appoint another fit person, being a justice of the peace of the said counties of Middlesex and Surrey respectively, to execute the duties of a justice of the peace at the said several police offices."

Sect. 2. "One or more of the said justices so appointed shall diligently attend at each of the said police offices every day from ten of the clock in the morning until eight of the clock in the evening, and at such other times and places as shall be found necessary and directed by one of his majesty's principal secretaries of state, and that two of the said justices shall in like manner attend together at each of the said offices from twelve of the clock at noon until three in the afternoon: provided always, that no such attendance shall be given on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving, unless in cases of urgent necessity, or when it shall be directed by such principal secretary of state."

3 Wil. 4, c. 19.

Police offices now
established to be
continued.

Justices to act.

Time of attendance.

3 Wil. 4, c. 19.

His majesty in council may alter the situation of offices, and hours of attendance of magistrates.

Receiver to be continued in office; and, in case of death, his majesty may appoint another.

His duty.

His salary.

Constables shall be employed, by direction of secretary of state, in Middlesex, Surrey, Essex, and Kent, and all liberties therein.

Dismissal of.

Thames Police surveyors to be

Sect. 3. "It shall be lawful for his majesty, his heirs and successors, by and with the advice of his or their privy council, to alter the situation of any of the said police offices, or to discontinue any of the said police offices, or to establish any additional police offices, or to make such regulations in the attendance of the justices, and in conducting such police offices, as may be deemed expedient."

Sect. 4. "The present receiver for the said police offices shall continue such receiver, and that it shall be lawful for his majesty, his heirs and successors, upon any vacancy in the said office of receiver by death or otherwise, to appoint any other proper person, not being one of the justices appointed to act at any of the said police offices, to be the receiver of the said police offices; and that the said receiver for the time being shall receive all fees, penalties, and forfeitures, and other sums of monies applicable to the purposes of this act; and shall keep an exact and particular account of all such monies as shall be received by him, and shall apply the same quarterly in discharge of the salaries, expenses, and charges attending the said police offices, and in carrying this act into execution; and shall make all such contracts and disbursements as shall be necessary for purchasing, hiring, fitting up, and furnishing proper and sufficient houses and buildings wherein the said police offices shall be held, in such manner as shall be directed by one of his majesty's principal secretaries of state, of which houses and buildings so to be hired or purchased, and of all houses and buildings already hired or purchased for the like purposes, and of the fixtures and furniture thereof, and of all other necessities to be held or purchased for the purposes of this act, the property acquired therein shall be vested in the receiver for the time being, who shall and may sell, assign, and dispose of the same, or any part thereof, under the like directions and appointment, as occasion shall require; and such receiver shall prepare proper plans and estimates of all such contracts and disbursements as shall be necessary for the purposes aforesaid, and shall deliver the same to one of his majesty's principal secretaries of state; and such receiver shall further do and execute all such other lawful matters and things towards the carrying this act into execution as from time to time shall be directed by one of his majesty's principal secretaries of state; and for his care and pains in the execution of such office shall and may retain to his own use, out of the monies so received by him as aforesaid, a sum not exceeding four hundred pounds *per annum*." [See further as to the receiver 10 Geo. IV. c. 44, s. 12, *ante*, 214.]

Sect. 5. "A sufficient number of fit and able men shall from time to time, by the directions of one of his majesty's principal secretaries of state, be appointed, retained, and employed as constables at the said police offices, and shall be sworn in by any of the said justices in their respective offices to act as constables for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; which constables so sworn shall, within the counties of Middlesex, Surrey, Essex, and Kent, and the liberty of his majesty's Tower of London, and all other liberties in the said counties, have all such powers, authorities, privileges, and advantages as any constable duly appointed now has or hereafter may have by virtue of any law or statute now made or hereafter to be made, and shall obey all such lawful commands as they shall from time to time receive from any of the said justices respectively for the apprehending offenders, or otherwise conducting themselves in the execution of their offices; and such justices may at any time suspend or dismiss from his employment any such constable attached to their respective offices whom they shall think remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such constable shall be so dismissed or cease to belong to any of the said offices, all powers and authorities vested in him as a constable under and by virtue of this act shall immediately cease and determine to all intents and purposes whatever."

Sect. 6. "The justices appointed to the said police office in the parish of St. John of Wapping, commonly called the Thames police office, or any of

them, shall (subject to the approbation of one of his majesty's principal secretaries of state) appoint, retain, and employ any number of fit and discreet men, who, under the name of Thames police surveyors, shall (being first duly sworn in manner above mentioned) have, within the counties and liberties aforesaid, the powers, authorities, privileges, and advantages of a constable as aforesaid, and shall direct and inspect the conduct of the constables attached to the Thames police office, and of all persons to be employed in and about ships and vessels in the said river Thames, or in or on the several creeks, docks, wharfs, quays, and landing places thereto adjacent, and (subject to the orders of any of the said last mentioned justices) shall have power by virtue of their offices to enter at all times, as well by night as by day, into and upon every ship, hoy, barge, lighter, boat, or other vessel (not being then actually employed in his majesty's service) lying or being in the said river or creeks, or in any dock or docks thereto adjacent, and into every part of every such vessel, for the purpose of inspecting and upon occasion directing the conduct of any constable who may be stationed on board of any such vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any such vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention or detection of any felonies or misdemeanors; and the justices appointed to the said Thames police office may at any time suspend or dismiss any such Thames police surveyor whom they shall find remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such surveyor shall be so dismissed, or cease to belong to the said office, all powers and authorities vested in him as such surveyor under and by virtue of this act shall immediately cease and determine to all intents and purposes whatever."

3 Wil. 4, c. 19.

appointed with approbation of secretary of state.

Sect. 7. "It shall be lawful for the chief magistrate of the public office in Bow street to administer to the officers of that office and to the horse patrol acting under his authority, an oath duly to execute the office of constable within the said several counties and liberties, and within the royal palaces of his majesty, his heirs and successors, and ten miles thereof; and each of the said officers and patrol of the said public office, being sworn, shall, within the several liberties and counties aforesaid, and also within the royal palaces and ten miles thereof, have power to act as a constable, and shall have therein all such powers and authorities, privileges and advantages, as any constable duly appointed now has, or hereafter may have within his constablewick: provided always, that when any such constable or patrol shall be dismissed from his employment, or cease to belong to the said public office in Bow street, all powers and authorities, allowances, emoluments, privileges, and advantages, vested in the person so dismissed or ceasing to belong to the said office, shall immediately cease and determine."

Officers and patrols of Bow street office to act as constables.

Sect. 8. "All powers and authorities, privileges, advantages, exemptions, duties, obligations, and liabilities, by this act conferred and imposed upon the magistrates of the said public office in Bow street, and upon the clerks, constables, and others therein employed, and on the horse patrol acting under the authority of the chief magistrate of that office, shall, in case of the removal of that office from the said street to any other street or place, be used and exercised, enjoyed and performed, by the magistrates, clerks, officers, patrol, and others respectively, at the office to be substituted for the said public office in Bow street, in as full and ample manner, to all intents and purposes, as if such substituted had been expressly named in this act."

In case of removal of Bow street office, powers to continue.

Sect. 9. "It shall be lawful for the justices of the said public office in Bow street, or for the justices appointed to attend at the said police offices, or for any of them, if they should think fit, on the application of any person or persons showing the necessity thereof, to appoint any number of fit and competent men recommended by the person or persons so applying, and approved by such justice or justices, to be constables to keep the peace at any place within the

Constables may be appointed for special purposes.

3 Wil. 4, c. 19.

limits of the weekly bills of mortality, or within the parishes of St. Mary-le-bone, Paddington, St. Pancras, Kensington, or St. Luke, Chelsea, in the county of Middlesex, for such period of time as such justice or justices shall deem fit and necessary, and to administer an oath to every such constable duly to execute that office within such place, and for the period of time for which he shall be appointed; and every constable so sworn shall, at such place, and during the time he shall so serve, have all such powers and authorities, privileges, advantages, and liabilities, as any constable duly appointed hath or shall have within his constablewick, and shall be paid by the person or persons on whose application he shall be appointed such wages as shall be deemed reasonable and adequate by the justice or justices by whom he shall be so appointed: provided always, that in case of any neglect of duty or misconduct of any constable so appointed, or upon the request in writing of the person or persons on whose application such appointment shall have been made, it shall be lawful for any of the aforesaid justices to determine such appointment, and all powers, authorities, privileges, advantages, and liabilities of such constable shall thereupon cease."

Power to punish constables for neglect of duty or other misconduct.

Sect. 10. "If any of the officers or patrols acting under the authority of the chief magistrate of the said public office, Bow street, or any of the constables retained and employed at any of the said police offices, or any of the constables appointed and sworn in under the authority of the justices of the metropolitan police, or any constable appointed and sworn in as herein-before last mentioned, shall be guilty of any disobedience of orders, neglect of duty, or of any misconduct as such constable, and shall be convicted thereof before two justices of the peace, he shall forfeit any sum not exceeding ten pounds, and in default of immediate payment shall suffer imprisonment, with or without hard labour, for any time not exceeding three months: provided always, that nothing herein contained shall prevent any such person from being proceeded against by way of indictment for any offence committed by him as constable, so as that no person shall be proceeded against both by indictment and also under this act for the same offence."

Justices to be allowed a salary of 800*l.* per annum.

Further sums to be issued for payment of clerks, constables, &c., and for Bow-street office and horse patrol.

Sect. 11. "It shall be lawful for his majesty, his heirs and successors, to direct that such sum shall be issued quarterly, out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to the said receiver, as will be sufficient to pay the yearly salary of eight hundred pounds, clear of all fees or deductions, to each of the justices appointed to attend at the said police offices for their time and trouble, and to pay such further sums as may be necessary for the expenses of the offices, and for the payment of clerks, constables, surveyors, and others therein employed, and for the payment of the expenses of the said public office in Bow-street, and of the magistrates' clerks, and constables, and others therein employed, and of the horse patrol acting under the authority of the chief magistrate of that office, and of such horse and foot patrol as have been superannuated under the provisions of the act passed in the third year of the reign of his late majesty king George the Fourth, for the more effectual administration of the office of justice of the peace in and near the metropolis; provided that the whole of the said charges shall not exceed the annual sum of fifty-eight thousand pounds, over and above the necessary disbursements for purchasing, hiring, repairing, fitting up, and furnishing the houses and buildings wherein the said offices shall be held; and that the said receiver, out of the monies so issued to him, shall and may pay to the constables and surveyors so appointed as aforesaid, for their trouble and attendance, such sum as may from time to time appear reasonable to one of his majesty's principal secretaries of state, and any extraordinary expenses necessarily incurred in apprehending offenders, and in executing the orders of the justices acting under, and by virtue of this act, such extraordinary expenses being first examined and approved of by the justices attending the police office to which such constables or surveyors shall be respectively attached; and shall and may pay, under the direction of such principal secretary of state, such further sum for rewarding the extraordinary diligence or exertion of any of the said

constables, or for compensating them for wounds or severe injuries received in the performance of their duties, or for an allowance to such of them as shall be completely disabled by bodily injury, or worn out by length of service." 3 Wil. 4, c. 19.

Sect. 12. "No justice of the peace for the county of Middlesex, county of Surrey, city and liberty of Westminster, or liberty of the Tower of London, or his clerk, or any person on their behalf, elsewhere than at the said public office in Bow-street and at the said police offices, shall directly or indirectly, upon any pretence whatever, take or receive any fee, reward, gratuity, or recompence for any act by him or them done or to be done in the execution of his or their office or employ as justice of the peace or clerk as aforesaid, within the limits of the weekly bills of mortality, or within the parishes of St. Mary-le-bone, Paddington, St. Pancras, Kensington, or St. Luke Chelsea, in the county of Middlesex, upon pain of forfeiting the sum of one hundred pounds for every such offence, one moiety thereof to the said receiver, to be applied to the purposes of this act, and the other moiety thereof, with full costs of suit, to the person who shall sue for the same in any of his majesty's courts of record at Westminster; and that every summons which shall, after the passing of this act, be issued by any justice of the peace of the counties of Middlesex and Surrey respectively, requiring any person residing within the said limits and parishes to appear at any place without those limits and parishes, to answer any information or complaint touching any matter arising within the said limits and parishes, shall be utterly void and of none effect; any law, custom, or usage to the contrary notwithstanding: Provided always, that nothing in this act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace, or at any meeting of justices for the purposes of licensing alehouses, or to any fees taken by the vestry clerk, or by the clerk to the churchwardens and overseers of any parish, for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognizable before justices of the peace, by virtue of any statute made and provided for the special regulation or government of such parish." No justice shall take fees but at the public office Bow-street and at the police offices. Penalty 100*l*. Summons for persons to appear at any place without the limits specified in this act, void. Nothing herein to extend to fees at quarter sessions, or meetings of justices for licensing alehouse, &c.

Sect. 13. "In some conspicuous part of each of the said police offices, and also of the said public office in Bow-street, there shall be affixed a table of the fees which may legally be taken at such offices respectively under an act passed in the twenty-sixth year of the reign of king George the Second, intituled, 'An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace,' and under another act passed in the twenty-seventh year of the reign of king George the Second, intituled, 'An Act for making perpetual several laws for punishment of persons destroying turnpikes, locks, or other works erected by authority of Parliament; and that all acts made for erecting Courts of Conscience shall be deemed public acts; and to empower a certain number of the trustees of the British Museum to do certain acts; and for confirming the table of fees to be taken by the clerks to the justices of the peace for the county of Middlesex; and for giving further time for the payment of duties omitted to be paid for the indentures or contracts of clerks and apprentices; and for filing affidavits in the execution of contracts of clerks to attornies and solicitors; and for preventing persons driving certain carriages from riding upon such carriages;' and that it shall be lawful for any justice at such offices respectively to refuse to do any act for which any fee shall be demandable unless such fee shall be first paid; and that if any such act shall be done, and the fee due thereon shall not be paid, it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due, and to make order for payment of the same, with the costs of the proceedings, and in default of payment to levy the same, with the costs of the distress, by warrant under his hand and seal." Table of fees to be hung up. 26 Geo. 2, c. 14. 27 Geo. 2, c. 16.

Sect. 14. "The justices of the said public office in Bow-street and the justices appointed to attend at the said police offices, and their clerks respectively, shall, in books to be provided for that purpose, keep a full, true, and particular account of all fees taken and received at each of the said offices, Account of fees and forfeitures received at said offices shall be delivered quar-

3 Wil. 4, c. 19.

terly to receiver,
and amount
thereof paid to
him.

Penalties and for-
feitures recovered
before any of the
justices to be paid
to receiver.

If fees and penal-
ties not accounted
for, receiver may
sue for same in
any court of re-
cord.

together with all penalties and forfeitures which shall have been recovered, levied, or received in pursuance of any adjudication, conviction, or order had or made at any of the said offices, or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall, once in every quarter of a year, deliver unto such receiver such account, verified upon oath by such justice or justices, clerk or clerks, or such other person or persons as shall be employed in keeping such accounts respectively or any part thereof, before some justice of the peace for the said county of Middlesex or county of Surrey, and shall pay the amount of all such fees unto such receiver, to be applied in manner herein-before mentioned."

Sect. 15. "Where by any act or acts, other than an act passed in the tenth year of the reign of his late majesty king George the Fourth, intituled, 'An Act for improving the Police in and near the Metropolis,' any penalties or forfeitures, or shares of penalties or forfeitures, are or shall hereafter be made recoverable in a summary manner before any justice or justices of the peace, and by such act or acts respectively the same are or shall be limited and made payable to his majesty, or to any body corporate, or to any person or persons whatsoever, save and except the informer who shall sue for the same, or any party aggrieved, in every such case the same, if recovered or adjudged before any justice or justices at the said public office in Bow-street, or at any of the said police offices, shall, notwithstanding any thing in such act or acts respectively contained, be recovered for and adjudged to be paid to the said receiver for the time being, to be by him applied for the purposes of this act; and the same shall not in any case be recovered by or adjudged to be paid to any other person than the said receiver, unless such person be the informer or the party aggrieved: provided always, that nothing herein contained shall extend or be construed to extend to any penalties or forfeitures recovered under any act relating to the customs or to trade or navigation, and sued for by the direction of the commissioners of his majesty's customs, which shall be paid to such person as the said commissioners shall direct to receive the same."

Sect. 16. "If the justices appointed as aforesaid, or any other person, having received any such fees at the said public office in Bow-street, or at any of the said police offices, shall neglect to account for and pay the same in manner aforesaid, or if any justice, justice's clerk, constable, officer, or other person who shall levy or receive such penalties or forfeitures, or shares of penalties or forfeitures, shall neglect to pay the same into the hands of such receiver, or if any person having resigned any such office of receiver, or having been removed from the same, shall neglect, within twenty-one days after notice for that purpose, to account for and pay into the hands of the succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this act, it shall be lawful for such receiver for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same, with costs of suit as between attorney and client, in any of his majesty's courts of record at Westminster, by action of debt, in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this act; and the defendant or defendants in such action may, at the discretion of any judge of such court, be held to special bail in such competent sum as such judge shall order and direct; and in any such action the court in which such action shall be brought may, if such court shall think proper, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person, at its discretion, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer); and upon the report of such referee, unless either of the parties shall show good cause to the contrary, such court may make a rule, either for the payment of such sum as upon such report shall appear to be due, or for staying the proceedings in such action, and upon such terms and conditions as to the same court shall appear reasonable and just, or may order judgment to be entered

up by confession for such sum as upon such report shall appear to be due." [See further 10 Geo. IV. c. 44, s. 14, *ante*, 215.]

3 Wil. 4, c. 19.

Sect. 17. "In case of the death of any such receiver, or of any person having resigned or been removed from such office, or of any of the other persons whom the said receiver for the time being is authorized to sue as aforesaid, in every such case the receiver for the time being may, in his own proper name only, or by his name and description of office, sue for and recover such sum of money as shall have been remaining in the hands of such deceased receiver or other person applicable to the purposes of this act, or the executors or administrators of such person deceased, in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this act, or that the deceased died possessed of money had and received for the purposes of this act, whereby an action accrued to the plaintiff to demand and have the same of such executors or administrators; and the like action shall and may be brought against any executors or administrators of executors or administrators; in all which actions the defendant or defendants may plead in like manner, and avail themselves of the like matters in their defence, as in any action founded upon simple contracts of the original testator or intestate; and in all actions to be brought by such receiver by virtue of this act, proof of the plaintiff's acting in the execution of such office shall be sufficient evidence of his holding the same, unless the contrary shall be shown in evidence by the defendant or defendants in such action." [See further 10 Geo. IV. c. 44, s. 15, *ante*, 215.]

Receiver may sue for money in hands of deceased receivers, and recover from executors.

Sect. 18. "Such receiver shall every three months, or oftener if required, make out a full and particular account of all monies by him received and paid as aforesaid; and such account, together with proper vouchers, shall be delivered by him, for the purpose of being examined and audited, to any person or persons whom one of his majesty's principal secretaries of state may direct."

Receiver to render accounts quarterly or oftener if required.

Sect. 19. "No justice appointed as aforesaid shall, during his continuance in such appointment, be capable of being elected, or of sitting as a member of the House of Commons; and that no justice, receiver, Thames police surveyor, or police constable appointed by virtue of this act shall, during the time that he shall continue in his office respectively, or within six months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in Parliament for the counties of Middlesex or Surrey, or for the city of London, or for the city and liberty of Westminster, the borough of the Tower Hamlets, the borough of Finsbury, or the borough of Mary-le-bone, in the county of Middlesex, or for the borough of Southwark or the borough of Lambeth in the county of Surrey respectively, nor shall, by word, message, writing, or in any other manner, endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in Parliament for any such county, city, or borough; and every such justice, receiver, surveyor, or constable offending therein shall forfeit the sum of one hundred pounds, one moiety thereof to the informer, and the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed, to be recovered by any person that shall sue for the same in any of his majesty's courts of record at Westminster within the space of one year after such offence committed: provided nevertheless, that nothing in this act contained shall extend to subject any such justice, receiver, surveyor, or constable to any penalty for any act done by him at or concerning any of the said elections in the discharge of his duty in any of the said respective capacities." [See further the 10 Geo. IV. c. 44, s. 18, *ante*, 217.]

Justices not to sit in parliament.

No justice, receiver, Thames police surveyor, or police constable to vote at certain elections.

Penalty 100*l*.

Sect. 20. "Where, by any law now in being or hereafter to be made, any act is directed or authorized to be done by any of the justices appointed as aforesaid, the same may be done and executed by any of the justices of the said public office in Bow-street, and where any act is directed or authorized to be done by any justice or justices of the peace residing in or near or next the parish or place where any offence or other matter cognizable

Acts directed to be done by a justice residing in or near the place where the subject matter shall arise, may be done by a

3 Wil. 4, c. 19.

justice at the next
police office.

Justices of Tower
liberty may act at
any of said offices.

Justices of said
offices exempt
from serving on
juries in Middlesex
or Surrey, or in
City of London.

6 Geo. 4, c. 50.

Regulation of fairs
within fifteen
miles of Temple
Bar.

Penalty on keep-
ing open houses,
&c. within the
hours prohibited,
5*l.* for the master,
and on any person
refusing to quit,
40*s.*

Fairs held without
lawful authority
within ten miles of
Temple Bar may
be inquired into.

before him or them shall be committed or shall arise, the same jurisdiction shall and may be exercised by a justice or justices acting in the said public office in Bow-street, or in such of the said police offices as may be situated next or near such parish or place; and that such of the aforesaid justices who shall be justices of the peace for the liberty of his majesty's Tower of London, shall and may sit and act as such justices for the said liberty at the said public office in Bow-street, or at any of the said police offices."

Sect. 21. "The justices of the said public office in Bow-street, and the justices appointed to attend at the said police offices, shall be and are hereby absolutely freed and exempted from being returned, and from serving on any juries or inquests whatsoever in the said counties of Middlesex or Surrey, or in the city of London, and shall not be inserted in any lists of men qualified and liable to serve as jurors, which shall be prepared and made out under and by virtue of an act passed in the sixth year of the reign of his late majesty king George the Fourth, intituled 'An Act for consolidating and amending the Law relative to Juries;' any thing in any act contained notwithstanding."

Sect. 22. "And whereas divers fairs are held within the city and vicinity of London by charter or prescription, and other fairs without any lawful authority, which lead to scenes of riot, disorder, debauchery, and crime, and it is expedient to regulate such fairs as are legally held, and to suppress such as have no lawful origin; be it therefore enacted, that at all fairs held within fifteen miles of Temple Bar, all business and amusements of all kinds shall cease at the hour of eleven in the evening, and not recommence earlier than the hour of six in the morning; and that if any house, shop, room, booth, standing, tent, caravan, waggon, or other place shall, during the continuance of any such fair as aforesaid, be open within the hours herein-before prohibited, for any purpose of business or amusement in the place where such fair shall be held, or within three hundred yards thereof, then it shall be lawful for any constable or other peace officer, within his jurisdiction, to take into custody the master or mistress, or other person having the care, government, or management of any such house, shop, room, booth, standing, tent, caravan, waggon, or other place, and also every person being therein, and who shall not quit the same forthwith upon being bidden by any such constable or other peace officer so to do, and to convey every such person so taken, as soon as conveniently may be, before a justice of the peace, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice, as the master, mistress, or person having the care, government, or management of any such house, shop, room, booth, standing, tent, caravan, waggon, or other place, shall forfeit and pay any sum not exceeding five pounds; and every person so convicted as having been therein, and not having quitted the same forthwith upon being bidden by a constable or other peace officer so to do, shall forfeit and pay any sum not exceeding forty shillings; and if any party so convicted shall not immediately pay the penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, unless the penalty shall be sooner paid; and if there shall appear to any two justices, within their respective jurisdictions, reason to believe that any fair usually held within the distance of ten miles of Temple Bar has been held without charter, prescription, or other lawful authority, or that any fair lawfully held within the said distance has been usually held for a longer period than is warranted by charter, prescription, or other lawful authority, it shall be competent to them to summon the owner or occupier of the ground upon which such fair is usually held to appear before such justices as may be present at some petty sessions, to be held at the time and place to be specified in the summons, not less than eight days after the service of the summons, to show his right and title to hold such fair, or to hold such fair beyond a given period (as the case may be); and if such owner or occupier shall not attend in pursuance of such summons, or shall not show to the justices present at such petty sessions sufficient cause to believe that such fair has been held by lawful right and title for

the whole period during which the same has been usually held, such justices shall declare, in writing, such fair to be unlawful, either altogether or beyond a stated period (as the case may be), and shall give notice of such their declaration, by affixing copies thereof on the parish church, and on the most public places in and near the ground where such fair has been usually held; and if after such notices shall have been affixed for the space of six days, any attempt shall be made to hold such fair, if it shall be declared altogether unlawful, or to hold it beyond the prescribed period, if it shall be declared unlawful beyond a certain period, any justice of the peace within his jurisdiction may, by his warrant, direct any constable or other peace officer to remove every booth, standing, and tent, and every carriage, of whatsoever kind, conveyed to, or being upon such ground for the purpose of holding or continuing such fair, and to take into custody every person erecting, pitching, or fixing, or assisting to erect, pitch, or fix, any such booth, standing, or tent, and every person driving, accompanying, or conveyed in every such carriage, and every person resorting to such ground with any exhibitions, shows, swings, roundabouts, whirligigs, or other instruments of gambling or amusement, and to carry every person so taken before the justice granting such warrant, or before some other justice, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice of any of the offences last aforesaid shall forfeit and pay any sum not exceeding ten pounds; and if the party so convicted shall not immediately pay the penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months unless the penalty shall be sooner paid: Provided nevertheless, that if the owner or occupier of the ground whereon any such fair has been usually held shall, when summoned before the justices at their petty sessions as aforesaid, enter into a recognizance in the penal sum of two hundred pounds, (which recognizance such justices are hereby authorized to take,) with condition to appear in the Court of King's Bench on the first day of the then next term, and to answer to any information in the nature of a *quo warranto* which his majesty's attorney or solicitor general may exhibit against such owner or occupier, touching the right and title to such fair, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, which costs the said court is hereby authorized to award, then, notwithstanding the justices shall declare such fair to be unlawful, they shall forbear from giving notice of such their declaration, and from taking any further measures thereon, until judgment shall be given by the said court against the right and title to such fair; and the justices taking such recognizance shall forthwith transmit the same to one of his majesty's principal secretaries of state, to the end that the same may be filed in the said court, and such further directions may be given thereon as to such secretary of state may seem fit and necessary."

3 Wil. 4, c. 19.

If declared unlawful, booths, &c. to be removed.

Penalty not exceeding 10*l*.

On entering into recognizance, question as to right of title to fair may be tried in K. B.

Sect. 23. "And whereas there are many shops, rooms, and places of public resort, where thieves, prostitutes, and other disorderly persons assemble at night; be it further enacted, that no shop, room, or place of public resort where ready-made coffee, tea, or other liquors are sold or consumed within the city of London or the liberties thereof, or within the limits of the weekly bills of mortality, or within any of the parishes herein-before mentioned, shall be kept open after the hour of eleven at night during any part of the year, nor open before the hour of four in the morning between Lady Day and Michaelmas, or before five in the morning between Michaelmas and Lady Day; and that no shop, room, or place of public resort where any refreshments or any liquors not subject to any duties of customs or excise are consumed within the city of London and the liberties thereof or within the said limits and parishes, shall be kept open after the hour of one in the morning, or before the hour of five in the morning; and if any such shop, room, or place shall be open within the hours herein-before respectively prohibited, or being shut up, if any person shall during those hours respectively be found therein, except the person actually dwelling

Regulations as to coffee shops.

Wil. 4, c. 19.	there, or having lawful excuse for being there, or if gaming shall be at any, time permitted or suffered therein, then the master, mistress, waiter, or other person having the care, government, or management of such shop, room, or place, whether he or she be the real owner or keeper thereof or not, shall forfeit and pay any sum not exceeding ten pounds upon conviction of any such offence before any justice of the peace, by confession or upon the oath of one or more credible witness or witnesses; and if the party so convicted shall not immediately pay the said penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months unless the said penalty shall be sooner paid; and the said penalty, when paid, shall be distributed, one moiety to the informer, and the other moiety to the chamberlain of the city of London, if the offence be committed in the said city, and if out of the said city, then to the said receiver for the purposes of this act: provided always, that nothing herein contained shall apply to or affect any house duly licensed for the sale of wines and spirituous liquors; and that no such conviction shall exempt the owner, keeper, or manager of any such shop, room, or place from any penalty or penal consequence whereto he or she may be liable for keeping a disorderly house.
Penalty not exceeding 10 <i>l</i> .	
Application of penalty.	
Proviso.	
Prohibiting the blowing of horns.	Sect. 24. "If any person shall, within the city of London and liberties thereof, or within the limits and parishes aforesaid, blow any horn or use any other noisy instrument, for the purpose of hawking, selling or distributing any article whatsoever, it shall be lawful for any constable, headborough, patrol, watchman, or other person to apprehend every person so offending, and convey him before any justice of the peace, who shall proceed to examine upon oath any witnesses appearing to give evidence touching such offence; and if the party accused shall be convicted of such offence, then and in every such case he shall for every such offence forfeit and pay any sum not exceeding forty shillings; and in case the offender shall not upon conviction forthwith pay the penalty, such justice is hereby required to commit such offender to the House of Correction, there to be kept to hard labour for any time not exceeding ten days, unless the penalty shall be sooner paid."
Penalty not exceeding 40 <i>s</i> .	
Negligence or wilful misbehaviour of drivers of carriages, &c. in streets or highways.	Sect. 25. "And whereas accidents often happen and damage is frequently done in streets and highways by the negligence or wilful misbehaviour of persons driving carriages or vehicles thereon, and the laws now in force have been found insufficient for the due protection of his majesty's subjects; be it therefore enacted, that if the driver of any carriage or vehicle of any kind whatsoever shall ride upon any such carriage or vehicle, or on any of the horses drawing the same, not having some person on foot or on horseback to guide the same (such carriages or vehicles as are commonly driven or conducted by some person holding the reins of the horse or horses excepted), or if the driver of any carriage or any vehicle whatsoever, or any person riding, shall, by negligence, wilful misbehaviour, or any other misconduct, cause any hurt or damage to any person or property being upon any street or highway, or if the driver of any carriage or vehicle whatsoever shall wilfully be at such distance from such carriage or vehicle that he cannot have the direction and government of any horse or horses or cattle drawing the same, not having employed some proper person to take care of the same, or shall, by negligence, wilful misbehaviour, or any other misconduct, interrupt the free passage of any other carriage or vehicle, or of his majesty's subjects, or shall obstruct any street or highway, and, being required by any constable or peace officer to pass on or move, shall continue to obstruct the same, every person so offending in any of the cases aforesaid within five miles of Temple Bar, and being convicted by any justice of the peace of any such offence, either upon confession, or by the oath of a credible witness, shall for every such offence forfeit any sum not exceeding forty shillings, and in every case where any such hurt or damage shall have been caused as aforesaid shall further pay such a sum, not exceeding five pounds, as shall appear to the said justice to be a reasonable compensation to the person so aggrieved or injured; and the evidence of such person shall
Penalty not exceeding 40 <i>s</i> .	
Compensation for hurt or damage not exceeding 5 <i>l</i> .	

be admitted in proof of the offence: provided always, that if the person so aggrieved or injured shall have been the only witness examined in proof of the offence, such sum so ordered as compensation shall be paid and applied in the same manner as a penalty; and in default of payment of such penalty and of such compensation, if ordered, together with the costs attending such conviction, immediately or within such time as such justice shall appoint, such justice shall and may commit such offender to the common gaol or House of Correction, to be there imprisoned for any term not exceeding two months, unless such penalty, together with the costs and compensation, if ordered, be sooner paid; and every such offender shall and may, by the authority of this act, with or without any warrant, be apprehended by any person who shall see such offence committed, and shall be immediately conveyed or delivered to a constable or other peace officer, in order to be conveyed before some justice of the peace." [See further, title "**Highways in General**," Vol. III. "**Highways**," "**Turnpike**," Vol. III.]

Sect. 26. "And whereas great inconvenience has arisen from the driving of stage carriages, and from the driving of cattle, sheep, pigs, and other animals in the streets and highways of the metropolis during the hours of divine service, and it is expedient that regulations should be made for preventing such interruption and annoyance; be it therefore enacted, that on the application of the minister or churchwardens of any church, chapel, or other place of public worship to the court of aldermen of the city of London, if the same shall be situated within the city of London or the liberties thereof, or to any two of the justices of the said public office in Bow-street, or to any two of the justices appointed to attend at any of the said police offices which shall be in the vicinity of such church or chapel or place of public worship, if the same shall be situated within the limits and parishes aforesaid, it shall be lawful for the court of aldermen, or for such two justices, as the case may be, to make rules or orders for regulating the route and conduct of persons who shall drive any stage carriage, or who shall drive any cattle, sheep, pigs, or other animals, within such parish or place during the hours of divine service on Sunday, Christmas-day, Good Friday, or any day appointed for a public fast or thanksgiving, and to annex reasonable penalties for the breach of such rules or orders, not exceeding forty shillings with costs, if ordered, for any such offence, provided the same be not repugnant to the laws of the realm, and from time to time to alter and amend the same if necessary; and every breach of any such rule or order shall be deemed a separate offence; and any person who shall offend against any such rule or order shall, on conviction thereof before any justice of the peace, forfeit and pay such penalty as shall be adjudged, and in default of payment within such time as such justice at the time of conviction shall appoint shall be liable to be imprisoned for any term not exceeding one month; and any person committing any offence against any such rule or order may be immediately apprehended, without any warrant, by any constable who shall see such offence committed, and be conveyed before a justice of the peace, to be dealt with as herein-before is mentioned; and any justice of the peace, on complaint made to him that any such offence hath been committed within his jurisdiction, may issue his warrant for the apprehension of any such offender: provided always, that when any such rules or orders shall have been made by the court of aldermen of the city of London, or by any two justices as herein-before is mentioned, the same shall be printed, and affixed on the church, chapel, or place of public worship to which the same shall refer, and in the most conspicuous places leading to and contiguous thereto, and elsewhere, as the said court of aldermen or the said justices shall direct."

Empowering court of aldermen or two justices to regulate the route and conduct of persons driving stage carriages, cattle, &c. during divine service.

Sect. 27. "No proprietor of any stage carriage duly licensed to carry passengers for hire shall be liable to any penalty for any deviation in the route or line of route specified in such licence, which the driver of such stage carriage shall be compelled to make during the hours of divine service by virtue of any order or rules made by the court of aldermen, or by two justices of the peace, as herein-before is mentioned."

Proprietor of stage carriages not liable to penalties for deviating from route prescribed in licence.

3 Wil 4, c. 19.

Penalty for bullock-hunting imposed by 21 G. 3, c. 67, increased.

Sect. 28. "And whereas an act passed in the twenty-first year of the reign of king George the Third, intituled, 'An Act to prevent the mischiefs that arise from driving Cattle within the cities of London and Westminster, and liberties thereof, and bills of mortality,' has been found ineffectual for the prevention of such mischiefs, and it is expedient to extend the powers and enlarge the limits of the said act; be it therefore enacted, that all the powers and provisions of the said act shall extend and be in force within the distance of five miles from Temple Bar, as fully and effectually as if such limits had been originally inserted in the said act; and that if any person not being employed to drive cattle shall within the said limits pelt with stones, brickbats, or by any other means hunt or drive away, or shall set any dog at any ox, heifer, cow, steer, or other cattle, contrary to the provisions of the said act, such person shall, upon being convicted thereof according to the said act, forfeit and pay, on the first conviction, any sum not exceeding forty shillings nor less than twenty shillings, and on the second and every future conviction any sum not exceeding five pounds nor less than fifty shillings, to the person or persons who shall prosecute such offender to conviction, and in default of payment shall be committed to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding two months on the first conviction, nor five months on the second and every future conviction, in the manner prescribed by the said act, unless the penalty be sooner paid."

Penalty for bear-baiting, cock-fighting, &c.

Sect. 29. "And whereas divers places in and about the metropolis are kept and used for the purpose of fighting or baiting of bears or other animals, at which places idle and disorderly persons commonly assemble, to the interruption of good order and the danger of the public peace; be it therefore enacted, that any person who shall, within five miles of Temple Bar, keep or use, or shall act in the management or conducting of any premises or place whatsoever for the purpose of fighting or baiting of bears, cock-fighting, baiting or fighting of badgers or other animals, shall, on conviction thereof before any one justice of the peace, forfeit any sum not exceeding five pounds, and in default of immediate payment shall be liable to be imprisoned and kept to hard labour for any time not exceeding two months, unless the said penalty shall be sooner paid."

Form of conviction.

Sect. 30. "Every conviction for any offence mentioned in this act, except in such cases where the form of such conviction is herein-after provided, may be in the following form of words, or some other form of words to the like effect:

"County, &c. } Be it remembered, that on the day of , in the
to wit. } year of our lord , at , A. B. is brought before me, [or,
having been duly summoned, has neglected to appear before me,] C. D. Esq., one of
his majesty's justices of the peace for the county of [or, city, or liberty or
place, as the case may be,] and is charged before me the said justice with having
[here describe the offence]; and it appearing to me the said justice, upon the
confession of him the said A. B. [or, upon the oath of a credible witness, as the case
may be,] that the said A. B. is guilty of the said offence, I do therefore adjudge
the said A. B. [insert the adjudication of the justice]. Given under my hand and
seal the day and year first above written."

Constables, &c. may apprehend any suspected person or reputed thief and convey him before a justice, who, if he sees just ground, may deem him a rogue and vagabond under 5 Geo. 4, c. 83 (a).

Sect. 31. "And whereas suspected persons and reputed thieves frequent the parks, fields, streets, highways, and places adjacent, and divers places of public resort, and the avenues leading thereto, within the city of London and the liberties thereof, the limits of the weekly bills of mortality, and the parishes aforesaid, and also the said river Thames, and the docks and creeks, quays and warehouses, adjacent thereto, and the streets, highways, and avenues leading to the said river, docks, creeks, quays, and warehouses, with intent to commit felony or other offences; and such persons also frequently assemble together in alehouses and beer shops, and in shops, rooms,

(a) See that act and law, *post*, "Vagrants;" see the enactment of 10 Geo. IV. c. 44, s. 7, *ante*, 213.

and places of public resort, where ready-made coffee or tea, or other liquors, or any refreshments or any liquors not subject to any duties of customs or excise, are consumed, for the purpose of devising or planning such felonies or other offences; and although their evil purposes are sufficiently manifest, the power of his majesty's justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; be it further enacted, that it shall be lawful for any constable, headborough, patrol, watchman, or other person, to apprehend every such suspected person or reputed thief, and convey him or her before any justice of the peace; and if it shall appear before the said justice, upon the oath of one or more credible witness or witnesses, that such person is a suspected person or reputed thief, and such person shall not be able to give a satisfactory account of himself or herself, and of his or her way of living, and it shall also appear to the satisfaction of the said justice that there is just ground to believe that such person was in or on any such place as aforesaid with such intent or for such purpose as aforesaid, every such person shall be deemed a rogue and vagabond within the intent and meaning of the statute made in the fifth year of his late majesty king George the Fourth, intituled, 'An Act for the punishment of idle and disorderly persons, and rogues and vagabonds, in that part of Great Britain called England,' and upon conviction shall be liable to the punishment inflicted by the said act on any person convicted as a rogue and vagabond; and in case any person so convicted shall afterwards be guilty of the like offence he shall be deemed to be an incorrigible rogue within the intent and meaning of the said statute, and shall be liable to be proceeded against as such in manner directed by the said statute."

Sect. 32. "Every such conviction shall be in the form or to the effect following, or as near thereto as circumstances will permit; (that is to say),

Form of conviction of reputed rogues and vagabonds.

"County, &c. } Be it remembered, that on the day of , in the
to wit. { year of our lord at , in the county of ,
A. B. is convicted before me C. D., one of his majesty's justices of the peace for
the county of [or city, &c., as the case may be,] of being a rogue and
vagabond within the intent and meaning of the statute made in the fifth year of
the reign of his late majesty king George the Fourth, intituled, 'An Act for the
punishment of idle and disorderly persons, and rogues and vagabonds, in that
part of Great Britain called England;' (that is to say,) for that the said A. B.,
on the day of , at , in the said county [here state the
offence proved before the magistrate,] and for which said offence the said A. B. is
ordered to be committed to the prison, there to be kept to hard labour for
the space of . Given under my hand and seal the day and year first
above written."

And the justice or justices of the peace before whom any such conviction shall take place shall and he and they is and are hereby required to transmit the said conviction to the next general or quarter sessions of the peace to be holden in and for the county, riding, division, or place wherein such conviction shall have taken place, there to be filed and kept on record; and a copy of the conviction so filed, duly certified by the clerk of the peace, shall and may be read as evidence in any court of record, or before any justice or justices of the peace acting under the powers or provisions of this act."

Sect. 33. "And be it further enacted, that no conviction under this act for any of the offences aforesaid shall be quashed or set aside, or adjudged void or insufficient, for want of form, nor shall the same be removed by certiorari into his majesty's Court of King's Bench; but that in all cases where the penalty shall exceed the sum of five pounds or one month's imprisonment, if any person shall think himself aggrieved by such conviction, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county or city wherein the cause of complaint shall have arisen, such person at the time of his conviction entering into a recognizance, with two sufficient sureties, conditioned personally to appear at the said sessions to try such appeal, and to abide

Conviction not to be quashed for want of form, or removable by certiorari.

Appeal to quarter sessions, &c.

3 Wil. 4, c. 19.

7 G. 4, c. 64.

Penalty for damaging, &c. boats belonging to Thames Police(a).

Surveyors having just cause to suspect felony may enter on board vessels and take up suspected persons.

Unlawful quantities of gunpowder may be seized.

12 Geo. 3, c. 61.

the further judgment of the justices at such sessions assembled; and it shall be lawful for the justice before whom such conviction has taken place to bind over the witnesses who shall have been examined in proof of such offence in sufficient recognizances, to attend and be examined at the hearing of such appeal, and that every such witness, on producing a certificate of his being so bound over under the hand of such justice, shall be allowed compensation for his time and trouble and expenses in attending such appeal, which compensation shall be paid by the treasurer of the county in like manner as in cases of misdemeanor according to and under the provisions of an act passed in the seventh year of the reign of his late majesty, intituled 'An Act for improving the Administration of Criminal Justice in England:' Provided always, that in case such appeal shall be dismissed and such conviction affirmed, the reasonable expenses of all such witnesses attending as aforesaid, to be ascertained by the court, shall be paid by the appellant or appellants, and the recognizance or recognizances so entered into as aforesaid shall be estreated, unless such expenses are so paid by such appellant or appellants."

Sect. 34. "If any person shall wilfully destroy or damage or endeavour to destroy or damage, or be wilfully concerned in destroying or damaging or endeavouring to destroy or damage, any boat or vessel belonging to or hired or employed by or by the authority of the justices appointed to attend at the Thames police office, or any part of the sails, oars, or other tackle, stores, goods, or furniture contained in or belonging to any such boat or vessel, every person so offending shall on conviction thereof before a justice of the peace forfeit and pay for every boat or vessel so destroyed or damaged or attempted to be destroyed or damaged, or of which any of the tackle or other contents shall have been so destroyed or damaged or attempted to be destroyed or damaged, any sum not exceeding thirty pounds, or shall suffer imprisonment for any time not exceeding three months, over and above any such damages as may be recoverable by action at law against any such offender."

Sect. 35. "It shall be lawful for every such Thames police surveyor (subject to the orders of any of the said justices appointed to attend the Thames police office), having just cause to suspect that any felony has been or is about to be committed in or on board of any ship, hoy, barge, lighter, boat, or other vessel lying or being in the said river, docks, or creeks, to enter at all times, as well by night as by day, into and upon every such ship, hoy, barge, lighter, boat, or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in and upon the said river, docks, or creeks, and to apprehend and detain all persons suspected of being concerned in such felonies, and also all property so suspected to be stolen, and the same to produce before some justice, to be dealt with according to law."

Sect. 36. "It shall be lawful for every such Thames police surveyor, at any time between sun-rising and sun-setting, to enter any ship or vessel (except his majesty's ships) in the said river, docks, and creeks, and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel, and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder, under a warrant of a justice, by virtue of an act passed in the twelfth year of the reign of king George the Third, intituled 'An Act to regulate the making, keeping, and carriage of Gunpowder within Great Britain, and to repeal the Laws heretofore made for any of those Purposes.'" [See "Gunpowder." Vol. II. "Nuisance," Vol. III.]

(a) See the regulations and provisions as to the river Thames, *post* "Thames."

3 Wil. 4, c. 19.

Boats or carriages having stolen property may be searched and detained, and persons suspected of having such goods may be taken before a justice.

Sect. 37. "It shall be lawful for any Thames police surveyor or constable, or any other police or peace officer, within his jurisdiction, to stop, search, and detain in some place of safety any boat, craft, or vessel which there shall be reason to suspect of having or conveying by water, and also any cart or carriage which there shall be reason to suspect of having or conveying on land, any goods, matter, or thing stolen or unlawfully obtained, and also to apprehend, search, and detain any person who may be reasonably suspected of having or conveying in any manner any goods, matter, or thing stolen or unlawfully obtained, and to convey every such person as soon as conveniently may be, together with such goods, matter, or thing, before some justice of the peace; and if such person shall not give an account to the satisfaction of such justice how he or she came by the same, such person shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned; and such boat, craft, or vessel, cart or carriage, shall upon such conviction be forfeited and disposed of as is herein-after directed."

Sect. 38. "If on an information given on oath it shall appear to any justice that there is reasonable cause for suspecting that any goods, matter, or thing stolen or unlawfully obtained are or is concealed or otherwise lodged in any dwelling house, warehouse, yard, garden, or any other place, it shall be lawful for such justice, by special warrant under his hand and seal, directed to any Thames police surveyor or constable as aforesaid, or other constable within his jurisdiction, to cause every such place to be entered and searched at any time of the day, or by night if power for that purpose be especially given in and by such warrant; and the said justice, if it shall appear to him necessary, may moreover empower such surveyor or constable, with any such assistance as to the said justice may appear, or by such surveyor or constable may be found necessary (such surveyor or constable having previously made known such his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made any such goods, matter, or thing shall be found, then to convey the same forthwith to and before a justice, or to guard the same on the spot while the offenders are taken before a justice, or otherwise dispose thereof in some place of safety, subject to the orders of a justice in manner above-mentioned, and moreover to apprehend and convey before the said justice the person or persons in whose house, lodging, or other place the same shall so have been found, as also every other person found in such house, lodging, or place who shall appear to have been privy to the depositing of such goods, matter, or thing in such place, knowing, or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained; and if such person respectively shall not immediately, or within some reasonable time to be assigned by the justice, make it appear to the satisfaction of the justice by what lawful means such goods, matter, or thing came to be deposited or situated in such place as aforesaid without any default on the part of such persons respectively, then and in such case the person or persons in whose house, lodging, or other place any such suspected goods, matter, or thing shall have been found, and also every other person so appearing to have been privy to the depositing thereof, knowing or having cause to suspect the same to have been stolen, or otherwise unlawfully obtained, shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned."

On information that there is reasonable cause for suspecting that any goods, &c. have been unlawfully obtained, and are concealed, how to proceed.

Sect. 39. "When any person shall be brought before such justice charged with having or conveying any such goods, matter, or thing stolen or unlawfully obtained, and shall declare himself or herself to have received the same from some other person, or to have been employed as a carrier, agent, or servant, to convey the same for some other person, such justice is hereby authorized and required to cause every such person, and also, if necessary, every prior or pretended purchaser, or other person through whose possession the same shall have passed, to be brought before him and examined, and to examine witnesses upon oath touching the same; and if upon the whole evidence it shall appear to such justice that any person shall have had possession of such goods, matter, or thing, and have had reasonable cause to

Party from whom stolen goods are received to be examined by the justice.

If goods are unlawfully obtained, party deemed guilty of misdemeanor.

3 Wil. 4, c. 19.

Possession of servant deemed possession of employer.

Framing a false bill of parcels to escape detection deemed a misdemeanor.

Unlawfully possessing instruments for procuring and carrying away wine, &c. deemed a misdemeanor.

Breaking, &c. packages, with an intent that contents may be spilled, a misdemeanor.

Wilfully letting fall articles into Thames, or into a boat, &c. with fraudulent intention, a misdemeanor.

believe the same to have been stolen or unlawfully obtained, every such person shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned; and every such person shall be deemed to have had possession of such goods, matter, or thing at the time and place when and where the same shall have been found or seized; and the possession of a carrier, agent, or servant, shall be deemed to be the possession of the person who shall have employed such other person to convey the same."

Sect. 40. "Every person who, for the purpose of protecting or preventing any goods, matter, or thing whatsoever from being seized on suspicion of their being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence of or concerning any felony or misdemeanor, shall frame or cause to be framed, or be anywise concerned in framing or causing to be framed, any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any such goods, matter, or thing, the place from whence or the conveyance by which the same were furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed, shall be adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned."

Sect. 41. "Any person who shall be found in or upon any canal, dock, warehouse, wharf, quay, or bank, or on board any ship, vessel, boat or craft, having in his or her possession any tube or other instrument for the purpose of unlawfully procuring or obtaining any wine, spirits, or other liquors, or having in his or her possession any skin, bladder, or other material or utensil, for the purpose of unlawfully secreting or carrying away any such wine, spirits, or other liquors, and any person who shall attempt unlawfully to procure or obtain any such wine, spirits, or other liquors, shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned."

Sect. 42. "And whereas for the purpose of increasing the facility of depredation, it hath been a common practice among persons concerned in the landing and warehousing of merchandize from on board ships and vessels in the said river wilfully to injure and promote the opening and breaking of casks, bags, and other packages, and the spilling of their contents; for remedy thereof be it further enacted, that if any person employed in the loading, landing, or warehousing of any goods, or any other person, shall wilfully or through culpable negligence or carelessness cause or suffer, or be concerned in causing or suffering, to be broken, bruised, pierced, started, cut, torn, or otherwise injured, any cask, box, chest, bag, or other package containing or being designed and prepared for containing any goods while on board of any barge, lighter, or other craft, lying or being in the said river, or any dock, creek, quay, wharf, or landing place adjacent to the same, or in the way to or from any warehouse to or from which such package shall have been removed, shall be removing, or about to be removed, with intent that the contents of such package or any part thereof may be spilled or dropped from such package, every person so offending shall for every such offence be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned."

Sect. 43. "If for the purpose of preventing the seizure or discovery of any materials, furniture, stores, or merchandize belonging to or having been part of the cargo of any ship or vessel lying in the said river, or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, any such or any other article shall be wilfully let fall or thrown into the river, or in any other manner directly or purposely conveyed away or endeavoured to be conveyed away from any ship, boat, barge, lighter, craft, wharf, quay, or other landing place, every person being party, privy, or accessory to such letting fall, throwing, or conveyance, or to any previous instructions or premeditated design so to let fall, throw, or convey away any such article with any such purpose as aforesaid, shall be

deemed and adjudged guilty of a misdemeanor, and suffer as herein-after mentioned; and every Thames police surveyor, or constable or other peace officer within his jurisdiction, shall apprehend and detain and forthwith convey such person before some justice, and shall also seize and detain any boat in which such person shall be found, or out of which any such article shall be so let fall, thrown, or conveyed away; and upon the conviction of such person, such boat, with her tackle, apparel, furniture, and loading, shall be forfeited and disposed of as is herein-after directed."

3 Wil. 4, c. 19.

Sect. 44. "For every offence herein-before declared to be a misdemeanor, or for which no special penalty is herein-before appointed, the offender shall, at the discretion of the justice before whom the conviction shall take place, either forfeit and pay any sum not exceeding five pounds, or suffer imprisonment for any time not exceeding two months, with or without hard labour, in any gaol or house of correction within the jurisdiction of such justice; and in case of the adjudication of a pecuniary penalty, and non-payment thereof, it shall be lawful for such justice to commit the offender to any gaol or house of correction for the like term, unless such penalty shall be sooner paid; and one moiety of every such pecuniary penalty, if recovered or adjudged before any justice or justices at the said public office in Bow-street, or at any of the said police offices, shall be paid to the said receiver as aforesaid for the purposes of this act, and if recovered or adjudged in the city of London, or the liberties thereof, shall be paid to the chamberlain of the city of London for the time being, and the other moiety thereof, under the direction of the justice by whom the same shall have been adjudged, shall either be paid and applied to the use of the informer alone, or be distributed between such persons as shall have contributed to the conviction of the offender, in such shares and proportions as such justice shall think fit; and that when any articles shall be seized by virtue of this act, and the person in whose possession the same shall have been found shall be convicted of a misdemeanor as aforesaid, it shall be lawful for the justice before whom the conviction shall take place to cause such articles to be advertised in some public newspaper, to the end that persons having a right thereto may claim and receive the same within thirty days from the date of such advertisement, in the manner and upon the conditions directed in and by an act of the second year of the reign of king George the Third, intituled 'An Act to prevent the committing of Thefts and Frauds by Persons navigating Bum-boats and other Boats upon the river Thames;' and if no person shall prove his property and right to the said articles within the said thirty days, the same shall be sold for the best price that can reasonably be gotten for the same; and after deducting the charges, according to the said recited act, the residue of the produce thereof shall be paid to the said receiver for the purposes of this act."

For offences declared misdemeanors, and for which no penalty is appointed, offenders shall forfeit not exceeding 5*l.*, or be imprisoned (with or without hard labour).

Articles seized to be advertised if person convicted.

2 Geo. 3, c. 28.

Sect. 45. "In every case in which complaint shall be made of any offence by this act declared to be a misdemeanor, or of any offence touching any boat or vessel belonging to or hired or employed by the justices appointed to attend at the Thames police office, the matter of such complaint, if the offence shall have been committed or the offender apprehended within the jurisdiction of the city of London, may be heard and determined by the lord mayor, recorder, or one of the aldermen of the said city, and not elsewhere; but if the offence shall have been committed or the offender apprehended out of the said jurisdiction, such complaint may be heard and determined, either by one of the justices appointed to the Thames police office as aforesaid, or by any other justice within whose jurisdiction the offence shall have been committed or the offender apprehended; and every conviction for any such offence shall be certified, filed, and entered in such manner as is directed in and by the said last recited act with respect to convictions under that act, and may also be drawn up in such form and manner, *mutatis mutandis*, as is appointed in and by the same act; and neither such conviction nor any proceeding previous thereto shall be removed by certiorari or otherwise into any court of record, but such conviction shall be final and conclusive to all intents and purposes whatsoever.

Offences how to be tried.

3 Wil. 4, c. 19.

Misdemeanors under recited act 2 Geo. 3, c. 28, to be punished at discretion of the justice.

Forfeited boats, instead of being burnt, may be restored or sold.

Penalty on masters of vessels between Westminster bridge and Blackwal having on board guns loaded with ball, or discharging guns before sun-rising or after sun-setting, or heating tar and other combustibile matter on board of vessels.

Disputes about wages for labour done on the river, &c. (except by Trinity ballast-men) to be settled

Sect. 46. "And whereas the punishments for misdemeanors provided in and by the said last-recited act have been found insufficient for the preventing of such offences; be it enacted, that every person who shall be guilty of any of the offences respectively made and declared to be misdemeanors in and by the said act may be punished, at the discretion of the justice or justices by or before whom the offender shall be convicted, either with the punishment appointed in and by the said act, or by such other punishment as is hereby appointed in cases of offences declared to be misdemeanors by this present act; and that all the powers and provisions of the said last-recited act respecting the obstruction of its execution, and the commencement and prosecution of actions against justices and their officers acting thereunder, shall extend to all things done and to all persons acting under this act, as fully as if the same powers and provisions were herein repeated and re-enacted."

Sect. 47. "And be it further enacted, that in all cases in which it is directed by the said last-recited act that any boat, with her tackle and appurtenances, which shall be forfeited, shall be burnt and destroyed, it shall be lawful for any justice before whom any person shall have been convicted of any offence whereby any boat is or should be adjudged to be forfeited under that act, and also for any justice by whom any boat shall be adjudged to be forfeited under this act, to direct such boat, with her tackle and appurtenances, either to be burnt and destroyed, or to be restored to the owners thereof, or to be publicly sold, and the produce of such sale to be applied in like manner as other forfeitures under this act."

Sect. 48. "And for the more effectual prevention of accidents by fire and other mischiefs upon the said river, be it further enacted, that if any master or commander or other officer of any ship or vessel (except his majesty's ships) shall, while such ship or vessel shall lie or be in the said river between Westminster bridge and Blackwall, keep any gun on board such ship or vessel shotted or loaded with ball, or cause or permit to be fired or discharged any gun on board such ship or vessel before sun-rising or after sun-setting, such master, commander, or other officer shall for every such gun so kept shotted or loaded forfeit the sum of five shillings, and for every gun so fired or discharged the sum of ten shillings; and if any master, commander, or other officer of any such ship or vessel, or any other person on board of the same, or any person on board of any barge, lighter, boat, or other craft or vessel, shall, while such ship, barge, lighter, boat, craft, or vessel shall lie or be in the said river between Westminster bridge and Blackwall, heat or melt, or cause or permit to be heated or melted, by fire, loggerheat shot, or any other means, on board any ship, barge, lighter, boat, craft, or vessel whatever, any pitch, tar, resin, grease, tallow, oil, or other combustibile matter, every person so offending shall for every such offence forfeit any sum not exceeding five pounds; and any one of the justices appointed to attend at the Thames police office, or any other justice within his jurisdiction, is hereby authorized and required, upon any complaint made in that behalf within ten days next after any such offence shall have been committed, to summon the party accused, and also the witnesses on either side, or, after oath made of the commission of any of the facts above mentioned by one or more credible witness or witnesses, to issue a warrant to apprehend the party accused, and upon the party's appearance, or contempt in not appearing (upon the proof of notice given), such justice shall proceed to the examination of the witness or witnesses on oath, and upon due proof thereof, either by the voluntary confession of the party, or by the oath of one or more credible witness or witnesses, to give judgment or sentence; and in case the party accused shall be convicted of such offence, it shall and may be lawful for such justice to commit such offender to prison, there to remain for any time not exceeding the space of two months, unless the penalty shall be sooner paid."

Sect. 49. "And whereas disputes frequently arise between bargemen, lightermen, watermen, ballastmen, coal-whippers, coal-porters, sailors, lumpers, riggers, shipwrights, caulkers, and other labourers who work for hire in or upon the said river, and the docks, creeks, wharfs, quays, and places adjacent, respecting wages or money due to them for work, and the

owners, masters, or commanders of vessels and their agents, and the owners, wharfingers, or occupiers of such wharfs or quays, and their agents, and other persons employing such labourers; be it further enacted, that all differences, complaints, and disputes which shall happen and arise between any bargemen, lightermen, watermen, ballastmen (except Trinity ballastmen), coal-whippers, coal-porters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers who work for hire in or upon the said river, or the docks, creeks, wharfs, quays, or places adjacent, and the owners, masters, or commanders of vessels, or their agents, on the said river, or the docks or creeks thereunto adjoining, or the owners, wharfingers, or occupiers of such wharfs or quays, or their agents or other employers, respecting wages or money due to such labourers for work, whether the same persons be employed for any certain time, or in any other manner, shall be heard and determined by the justices appointed to the Thames police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel, or any such owner thereof, or his agent, or the owner, wharfinger, or occupier of any wharf or quay, or their respective agents, or any other employer; and if any such person being so summoned shall refuse or neglect to attend such summons, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him to answer such complaint, and to examine upon oath any such labourer as aforesaid, or any other witness or witnesses, touching any such complaint or dispute, and to make such order for payment of so much wages to such labourer as to such justice shall seem just and reasonable, provided that the sum ordered do not exceed five pounds, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and in case of refusal to pay, or nonpayment of any sum so ordered, by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive to all intents and purposes, and shall not be removable by certiorari or otherwise into any court whatsoever."

3 Wil. 4, c. 19.

by justices, provided the sum in question does not exceed 5*l*.

Sect. 50. Provided always, "that nothing herein contained shall extend to authorize or empower any justice, except the Lord Mayor, aldermen, and recorder of the city of London for the time being, or some or one of them, to hear and determine any such differences, complaints, or disputes as shall or may arise for or in respect of any employment or work done within the said city of London, or the suburbs and liberties thereof, or on board of any ship, hoy, barge, lighter, boat, or other vessel lying or being on the north side of the river, between the Tower of London and the western extremity of the Temple, adjoining Essex-street, in the county of Middlesex."

Jurisdiction for determining disputes about wages for labour done on Thames, &c.

Sect. 51. Provided always, "that nothing in this act shall extend to deprive the Lord Mayor and commonalty and citizens of the city of London of any right, privilege, or jurisdiction heretofore lawfully claimed, exercised, or enjoyed within the town and borough of Southwark or the liberties thereof, or to prevent the said Lord Mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being, from acting as justices of the peace within the said town and borough of Southwark and the liberties thereof in such and the like manner as they could or might have done in case this act had not been made, nor to deprive the Lord Mayor and commonalty and citizens of the said city of any right, privilege, immunity, or jurisdiction which they have heretofore lawfully claimed, exercised, or enjoyed upon the said river, or the Lord Mayor of the said city for the time being as conservator of the said river, nor to prevent the said Lord Mayor and the said aldermen and

Not to affect rights of city of London, &c. ;

3 Wil. 4, c. 19.

nor the dean or high steward of Westminster.

Not to affect the rights of Trinity House, &c.

Commencement and continuance of act.

Repeal of former acts.

3 Geo. 4, c. 55.

6 Geo. 4, c. 21.

10 Geo. 4, c. 45.

Proviso.

Justice may summon or apprehend offender.

The word month to signify a calendar month.

Act may be altered this session.

Public act.

3 & 4 W. 4, c. 89.

10 Geo. 4, c. 44.

recorder of the said city from acting as justices of the peace upon the said river, or taking cognizance of offences committed upon or within the limits of the same, in such manner as they might or would have done in case this act had not been made."

Sect. 52. Provided also, "that nothing in this act shall extend to deprive the dean and chapter of the collegiate church of Saint Peter Westminster, or the high steward or high bailiff of the city and liberty of Westminster, for the time being, or their respective lawful deputies, of any rights, privileges, or jurisdictions which they have heretofore lawfully claimed, exercised, or enjoyed within the said city and liberty, in such and the like manner as they could or might have done in case this act had not been made."

Sect. 53. Provided also, "that nothing in this act contained shall extend to prejudice or derogate from any of the rights, privileges, or authorities of the master, warden, and assistants of the guild, fraternity, or brotherhood of the most glorious and undivided Trinity, and of St. Clement, in the parish of Deptford Strond in the county of Kent.

Sect. 54. "This act shall commence and take effect upon the day next after the day of the passing thereof, and shall continue until the fifth day of July in the year one thousand eight hundred and thirty-six, and from thence until the end of the then next session of Parliament; and that as soon as this act shall commence and take effect, an act passed in the third year of the reign of his late majesty George the Fourth, intituled 'An Act for the more effectual administration of the office of a Justice of the Peace in and near the Metropolis, and for the more effectual prevention of Depredations on the river Thames and its vicinity, for seven years;' and an act passed in the sixth year of the reign of his said late majesty George the Fourth, intituled 'An Act to amend an Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis;' and also an act passed in the tenth year of the reign of his said late majesty George the Fourth, intituled 'An Act to continue until the fifth day of July, one thousand eight hundred and thirty-two, an Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis,' shall cease and determine; except as to any offences which may have been committed against any of the acts before the commencement of this act, and as to any penalties which may have been incurred under any of the said acts before the commencement of this act, which offences shall be dealt with and punished, and the penalties recovered, as if this act had not been passed; and except also as to any matters done by any persons under the authority of any of the said acts before the commencement of this act, with respect to which every privilege and protection given to such persons by any of the said acts shall continue in force as if this act had not been passed."

Sect. 55. "It shall be lawful for any justice of the peace, on complaint made to him of any offence committed against this act, either to summon or to issue his warrant for the apprehension of the offender, as he shall think fit."

Sect. 56. "Wherever the word month or months shall occur in this act, the same shall be deemed and taken to mean a calendar month or calendar months."

Sect. 57. "This act may be amended, altered, or repealed by any act to be passed in this present session of parliament."

Sect. 58. "This act shall be deemed, adjudged, and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and other persons whomsoever, without the same being specially pleaded."

By the 3 & 4 Wil. IV. c. 89, intituled "An Act to authorize the issue of a sum of Money out of the Consolidated Fund towards the support of the Metropolitan Police," [28 August, 1833,] reciting, "Whereas an act was passed in the tenth year of the reign of his late majesty King George

the Fourth, intituled, 'An Act for improving the Police in and near the Metropolis:' and whereas it was among other things therein enacted, that as soon as the police to be appointed under that act should take charge of any parish, township, precinct, or place, whether parochial or extra-parochial, within the metropolitan police district, it should be lawful for the justices appointed under that act forthwith, and so from time to time, subject to the approbation of one of his majesty's principal secretaries of state, to issue a warrant under their hands to the overseers of the poor of every such parish, township, precinct, or place, by which warrant they should command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or place, to pay the amount mentioned in the warrant for the purposes of the police under that act, or to levy such amount as a part of the rate for the relief of the poor in such parish, precinct, township or place; and that the overseers should pay over the amount mentioned in the warrant to the receiver to be appointed under that act within forty days from the delivery of such warrant to any one of the overseers; provided always, that the sum to be paid for the purposes of police under that act should not exceed in the whole in any one year the rate of eight-pence in the pound on the full and fair annual value of all property rateable to the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate; and that the warrant should specify the rate in the pound upon which the sum mentioned therein should be computed: and whereas it is just and expedient that the said parishes, townships, precincts, or places should be relieved of part of such charge, and that part thereof should be paid out of the consolidated fund, upon certain conditions, in the manner hereinafter mentioned:"

it is enacted, "that upon the certificate of one of his majesty's principal secretaries of state, that the overseers of the poor of any parish, township, precinct, or place have paid all arrears due under the said recited act, or have made arrangements for the payment of the same satisfactory to the said secretary of state, and have also raised and paid, within the period prescribed by the said recited act, a sum equal to three-pence in the pound on the full annual value of all property, rated according to the provisions of the said recited act, towards the discharge of any warrant issued after, or which shall not have become due before, the passing of this act, for maintaining the police of the metropolis for the six months next ensuing, the lord high treasurer or the commissioners of his majesty's treasury for the time being, or any three or more of them, shall direct, by warrant under their hands and seals, such a sum for and in addition to every three-pence so raised and paid as aforesaid, to be issued and paid from the consolidated fund of the United Kingdom of Great Britain and Ireland to the receiver appointed under the said act, as may be required in addition to the sum raised by such three-pence in the pound, to defray the charge of maintaining the police of the metropolis; and no such parish, township, precinct, or place, having paid all arrears and such three-pence in the pound as aforesaid, shall be subject to any further higher charge towards defraying the charge of the police during the period of six months from the date of any such warrant, any thing in the said recited act to the contrary notwithstanding."

[See enactment of 10 Geo. IV. c. 44, as to the police rates, *ante*, 218, &c.]

On certificate from secretary of state that arrears and rates required under the recited act have been paid in any parish, &c., the Treasury to direct such sum as shall be necessary in addition thereto to be advanced from consolidated fund.

Sect. 2. "No larger sum than sixty thousand pounds shall be issued out of the consolidated fund in any one year for the purpose aforesaid, and for the general maintenance of the police of the metropolis; which said sum shall be issued and paid free and clear of all rates, fees, and impositions whatsoever."

Sum advanced not to exceed 60,000*l.* in any one year.

Sect. 3. "Nothing in this act contained shall alter or repeal any of the powers given by the said recited act for enforcing the payment of any warrants which may be issued from time to time according to the provisions of said act."

Powers of recited act, as to enforcing payment not to be altered.

Sect. 4. "The receiver appointed under the said recited act shall, with respect to the application of and accounting for such sum or sums as shall be issued and paid to him out of the consolidated fund under this act, be subject to the same regulations and provisions to which he is subject under the said act with respect to the monies receivable by him under the said act."

Application of and accounting for the money.

By 6 & 7 Wil. IV. c. 50, intituled, "An Act to authorize the placing of 6 & 7 Wil. 4, c. 50.

3 & 4 Wil. 4, c. 89. *the Horse Patrol now acting under the Authority of the Chief Magistrate of the Public Office in Bow Street under the Authority of the Justices appointed for the Metropolitan Police District,* [13th August, 1836,] reciting, "whereas it is expedient that the horse patrol now acting under the authority of the chief magistrate of the public-office in Bow-street should be placed under the authority of the justices appointed by virtue of an act passed in the tenth year of the reign of his late majesty king George the Fourth, intituled, 'An Act for improving the Police in and near the Metropolis;' it is therefore enacted, "that it shall be lawful for one of his majesty's principal secretaries of state to direct that such horse-patrol shall be under the authority of the said justices for the time being; and it shall be lawful for one of the said justices to administer to such horse-patrol an oath to act as constables for the preservation of the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn shall, within the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and within all liberties therein, and within the royal palaces of his majesty, his heirs and successors, and ten miles thereof, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his constablewick by virtue of the common law of this realm, or of any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the said justices for conducting themselves in the execution of their office."

10 Geo. 4, c. 44.
Horse-patrol to be under the authority of the justices appointed under the recited act.

Such justices to act also in the counties of Berks and Bucks.

The said justices to appoint the persons to act as horse-patrol.

Penalty for assaulting horse-patrol.

Punishing horse-patrol for disobedience of orders.

Sect. 2. "It shall be lawful for his majesty to appoint the said justices to be justices of the peace of the counties of Berks and Bucks and of all liberties therein, and for the said justices so appointed to execute the duties of a justice of the peace for the said counties of Berks and Bucks and for all liberties therein, although they may not have any such qualification by estate as is required by law in the case of any other person being justices of the peace for any county: provided always, that no such person shall act as a justice of the peace at any court of general or quarter sessions, nor in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying into execution the purposes of this act."

Sect. 3. "The said justices may from time to time, subject to the approbation of one of his majesty's principal secretaries of state, appoint fit and proper persons to act as such horse-patrol, and may frame such orders and regulations as they shall deem expedient relative to the general government of the said horse-patrol, the places of their residence, the classification, rank, and particular service of the several members, their distribution and inspection, the description of arms, accoutrements, and other necessities to be furnished them, and all such other orders and regulations relative to the said horse-patrol as the said justices shall from time to time deem expedient; and the said justices may at any time suspend or dismiss from his employment any man belonging to the said horse-patrol whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and when any man shall be so dismissed or cease to belong to the said horse-patrol all powers vested in him as a constable by virtue of this act shall immediately cease and determine."

Sect. 4. "If any person shall assault or resist any person belonging to the said horse-patrol in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being convicted thereof before two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding 5*l.*, as the said justices shall think meet, and in default of immediate payment shall suffer imprisonment with or without hard labour for any time not exceeding two months."

Sect. 5. "If any of the said horse-patrol shall be guilty of any disobedience of orders, neglect of duty, or of any misconduct as such constable, and shall be convicted thereof before two justices of the peace, he shall forfeit any sum not exceeding 10*l.*, and in default of immediate payment shall suffer imprisonment, with or without hard labour, for any time not exceeding three months: provided always, that nothing herein contained shall prevent any such person from being proceeded against by way of indictment for any

offence committed by him as a constable, so as that no person shall be proceeded against both by indictment and also under this act for the same offence." 6 & 7 Wil. 4, c. 50.

Sect. 6. "If any victualler, or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said horse-patrol, or permit such man to abide or remain in his house, shop, or room, or other place during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding 5*l.*, as they shall think meet." Penalty on victuallers harbouring horse-patrol.

Sect. 7. "It shall be lawful for one of his majesty's principal secretaries of state to direct that the receiver for the time being of the police-offices established in the parishes of St. Margaret Westminster, St. James Westminster, St. Marylebone, St. Andrew Holborn, St. Leonard Shoreditch, St. Mary Whitechapel, and St. John of Wapping, in the county of Middlesex, and St. Saviour, in the county of Surrey, to pay over, out of the monies issued to him out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to the receiver of the metropolitan-police district for the time being, an annual sum, not exceeding 10,000*l.*, for the support and maintenance of the said horse-patrol." Receiver of police-offices to pay over a certain sum to the receiver of the metropolitan-police district for the support of the horse-patrol.

Sect. 8. "The said receiver of the metropolitan-police district shall pay over all monies so received by him on account of the said horse-patrol into the hands of the governor and company of the Bank of England, and shall keep a separate and distinct account of such monies, and of all sums expended by him in respect of the said horse-patrol." Receiver of metropolitan-police district to pay such monies into the Bank of England.

Sect. 9. "All the provisions and enactments contained in the aforesaid act relative to the drawing and accounting for monies which may come into the hands of the said receiver of the metropolitan-police district for the purposes of that act, and for the auditing the accounts of the said receiver, and the powers and liabilities of the said receiver, shall be deemed and taken to extend to the said receiver in respect to the said horse-patrol, so far as the same may be applicable, as fully and entirely as if the same were herein expressed and enacted." Extending certain powers of act 10 Geo. 4, to this act.

Sect. 10. "The said receiver of the metropolitan-police district shall stand possessed of all the horses, arms, accoutrements, and other necessities which have been furnished, and are in the use or possession of the said horse-patrol, and make all such contracts or disbursements as shall be necessary for renting any land or buildings, or for erecting, fitting up, furnishing, or repairing any buildings for the purposes of this act, in such manner as one of his majesty's principal secretaries of state shall direct; and of all lands and buildings so to be rented, and of the fixtures and furniture thereof, and of all goods and chattels whatsoever to be from time to time held or purchased for the purposes of this act, the property acquired therein shall be vested in the said receiver for the time being; and the said receiver may, by the directions of such principal secretary of state, sell, assign, or dispose of the whole or any part of such property as aforesaid, and shall execute all such lawful matters for carrying this act into execution as such principal secretary of state shall from time to time direct." Horses, arms, &c. of horse-patrol vested in receiver of metropolitan police.

Sect. 11. "The said receiver of the metropolitan-police district, out of the monies so received by him on account of the said horse-patrol, shall from time to time pay to the horse-patrol such salaries, wages, and allowances, and at such periods, as one of his majesty's principal secretaries of state shall direct, and also any extraordinary expenses which they shall appear to have necessarily incurred in apprehending offenders, and executing the orders of either of the justices, such expenses being first examined and approved by one of the said justices; and the receiver shall likewise pay any further sums which such principal secretary of state shall direct to be paid to any of the persons belonging to the said horse-patrol, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service, and he shall also pay all other charges and expenses which such principal secretary of state shall direct to be paid for carrying this act into execution." The said receiver to pay wages of horse-patrol, and expenses connected therewith.

6 & 7 Wil. 4, c. 50.

Provisions of re-
cited act relative
to punishment of
offenders ex-
tended to this act.

Horse-patrol not
to be allowed to
vote, or otherwise
interfere in elec-
tions, except in
discharge of their
official duties.

Sect. 12. "All the provisions contained in the hereinbefore mentioned act for the punishment of offences and recovery and application of penalties shall be deemed and taken to extend to any offence committed against this act, so far as the same may be applicable, as fully and entirely as if the same were herein expressed and enacted."

Sect. 13. "No person who after the passing of this act may be appointed to the said horse-patrol shall, during the time that he shall continue a member thereof, or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in parliament for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the metropolitan-police district, nor shall, by word, message, writing, or in any other manner, endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in parliament for any such county, city, or borough; and if any such person belonging to the said horse-patrol shall offend therein he shall forfeit the sum of 100*l.*, to be recovered by any person who will sue for the same by action of debt, to be commenced within six calendar months after the commission of the offence; and one moiety of the sum so recovered shall be paid to the informer, and the other moiety thereof to the receiver for the metropolitan-police district, to be by him added to and applied as part of the funds for the purposes of the said horse-patrol: provided always, that nothing in this enactment contained shall subject any such person belonging to the said horse-patrol to any penalty for any act done by him at or concerning any of the said elections in the discharge of his official duty."

Poll-Books, Evidence by, see "**Evidence**," Vol. II. p. 46.

Polygamy.

- I. *The Offence of, and Punishment*, 246.
- II. *Indictment for*, 251.
- III. *Evidence as to*, 252.
- IV. *Forms*, 254.

I. The Offence of, and Punishment.

Bigamy and poly-
gamy.

9 Geo. 4, c. 31.

Punishment for.

Place of trial.

Exceptions.

Repeal.

General clauses.

Alterations of
previous laws.

BIGAMY is where a man has two wives successively; Polygamy, where he hath several wives at the same time; but they are commonly confounded one with the other.

By 9 Geo. IV. c. 31, s. 22, "if any person, being married, shall marry any other person, during the life of the former husband or wife, (whether the second marriage shall have taken place in England or elsewhere,) every such offender, and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and, being convicted thereof, shall be liable to be transported beyond the seas, for the term of seven years, or to be imprisoned, with or without hard labour, in the common gaol, or house of correction, for any term not exceeding two years; and any such offence may be dealt with, inquired of, tried, determined, and punished, in the county where the offender shall be apprehended, or be in custody, as if the offence had been actually committed in that county: provided always, that nothing herein contained shall extend to any *second* marriage contracted out of England, by any other than a *subject of his majesty*, or to any person marrying a *second time*, whose husband or wife shall have been continually *absent* from such person for the space of *seven* years then last past, and shall *not have been known* by such person to be living within that time, or shall extend to any person who, *at the time of such second marriage*, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared *void* by the sentence of any court of competent jurisdiction."

By this act, all the prior statutes relative to this offence are repealed.

See the general clauses of the 9 Geo. IV. c. 31, affecting all its provisions, title "**Malicious Injuries to Persons**," Vol. III.

Before this act, if the second marriage took place out of the jurisdiction

of the law of England, it was not punishable under that law. Moreover, as the law then stood, a person whose consort had been abroad for seven years, though *known* to be living, might marry again with impunity; and it was also held, under one of the former statutes, that a person divorced *a mensâ et thoro* only, was exempt from the penalties of bigamy. (1 *East*, P. C. 466.) It will be seen the present act has made many improvements in these respects. (See *Collyer's Statutes*, 28; *Carr. C. L.* 251, 2.)

By the 7 & 8 Geo. IV. c. 28, s. 10, if the convict be already under sentence of transportation or imprisonment, the sentence for bigamy may commence after the expiration of the former sentence.

Being Married.]—This extends to a marriage *de facto*, or voidable by reason of consanguinity, affinity, or such like; for it is a marriage in judgment of law until it be avoided; and, therefore, though neither marriage be *de jure*, yet they are within this statute. (3 *Inst.* 88. See *R. v. Jacobs*, R. & M. 140, *post*, 248.)

Voidable marriage.

But it is otherwise if the marriage be not voidable merely, but *void*: as, for instance, if a woman marry A., and in the lifetime of A. marry B.; and after the death of A., and whilst B. is alive, she marry C.; she cannot be indicted for bigamy in her marriage with C., because her marriage with B. was a mere nullity. (1 *Hale*, 693; *post*, 250.)

Void marriage.

So, the marriage of an idiot, or of a lunatic not in a lucid interval, is void, because he is deemed in law incapable of entering into such a contract. (1 *Bl. Com.* 438, 439.) So, if a boy, under fourteen, or a girl under twelve, contract matrimony, it is void, unless both husband and wife consent to and confirm the marriage, after the minor arrives at the age of consent. (*Co. Lit.* 79; see *R. v. Gordon*, R. & R. 48.)

A valid marriage must exist and be proved; (*per Bayley, J.*, in *Smith v. Huson*, 1 *Phillimore*, 287); the law will not presume it in cases of bigamy, as it will in civil cases. (*Ib.*)

With respect to the place where banns may be published and a marriage solemnized, (see the *Marriage Act*, 4 Geo. IV. c. 76, and 6 Geo. IV. c. 92.) The non-residence of the parties where the banns were published, or, if by licence, where the marriage was solemnized, is immaterial. (4 Geo. IV. c. 76, s. 26; *R. v. Hind*, R. & R. 253.)

If the marriage were by licence, and celebrated under the stat. 26 Geo. II. c. 33, it was necessary, by s. 11, if either of the parties were a minor at the time, to constitute the offence of bigamy, to prove that the marriage was solemnized with the consent of the father, guardian, or mother of the minor, as required by that act; (*R. v. Butler*, R. & R. 61; *R. v. Morton*, R. & R. 19, n.; *R. v. James*, R. & R. 17.—*Per Bayley, J.*, in *Smith v. Huson*, 1 *Phillimore*, 287;) but it seems, that subsequent countenance from parents or guardians, or other circumstances of a similar kind, might afford ground for presuming the necessary consent. (*R. & R.* 61, n.) Provisions were made to remedy this by stat. 3 Geo. IV. c. 75, and 4 Geo. IV. c. 17, s. 2; and the late act, 4 Geo. IV. c. 76, s. 14, merely *requires* consent in such cases; but does not proceed to make void marriages solemnized without such consent, (*R. v. Birmingham*, 8 B. & C. 29; 2 *Man. & Ry.* 230, S. C.); and therefore such consent need not now be proved. Where a minor was married without consent, in the interval between the 22nd July, 1822, (when 3 Geo. IV. c. 75, received the royal assent, by which s. 11 of stat. 26 Geo. II. c. 33, was repealed,) and the 1st September, 1822, (when the stat. 3 Geo. IV. c. 75,) came into operation, it was holden, that the marriage was valid, because, during that interval, there was no enactment in force relating to marriages by licence. (*R. v. Waully*, R. & M. 163.) It was the intention of the Marriage Act, that the banns should be published in the true names of the parties. The rule upon this subject is, that if the banns were published in a name or names totally different from those which the parties, or one of them, ever used, or by which they were ever known, the marriage in pursuance of that publication is invalid; and it is immaterial, in that case, whether the misdescription has arisen from accident or design, or whether it be fraudulent or not; but if there be a partial variation of name only, as the alteration of a letter or letters, or the addition or suppression of one Christian name, or the names have been such as the parties have used and been known by at one time, and not at another—in such cases, the publication may or may not be void, the supposed misdescription

1. *Offence and Punishment.*

may be explained, and it becomes a most important inquiry, whether it was consistent with honesty of purpose, or was done from a fraudulent intention. (*R. v. Inhabitants of Tebshelf*, 1 B. & Ad. 190.) In order to invalidate a marriage, the misdescription in the banns must be with the knowledge of both parties, for the words of the statute are knowingly and wilfully. (*R. v. Wroxton*, 4 B. & Adol. 640, 1 Nev. & M. 612, S. C.; *Jervis, Arch. C. L.*, 6th ed. 540.)

The offence will, it seems, be complete, though the defendant assume a fictitious name after the second marriage. (*R. v. Allison*, R. & R. 109.) And where, upon an indictment for marrying Anna T., the defendant's first wife being alive, it appeared that her name was not Anna but Susannah; but the defendant wrote her name Anna, in the note for the publication of banns, and signed the register in which she was so called: it was held, that although her name might not be Anna, he could not defend himself on the ground that he did not marry Anna T. (*R. v. Edwards*, R. & R. 283.) And where the second wife was married by the name of Eliza Thick, which name she had assumed when the banns were published, purposely that she might not be known to be the person intended (her name being Eliza Brown), *Gurney, B.*, held it to be no answer to the charge. (*R. v. Penson*, 5 C. & P. 412.)

Jews' or Quakers' marriages.

The marriage act does not extend to Jews (*Lorrido v. Belesario*, 1 Hagg. 216; *Goldsmid v. Bromer*, id. 324), or Quakers, (see *Dean v. Thomas*, M. & M. 361) (a), but they include all other dissenters; the marriages of the latter must, therefore, be proved in the ordinary manner. It seems that, to prove a Jewish marriage, it is not enough to produce witnesses who were present at the ceremony in the synagogue, but that the written contract between the parties should be produced, and the execution of it proved. (*Horn v. Noel*, 1 Camp. 61.) On the trial of a plea of coverture, *Lord Kenyon* permitted a Jewess, who had been the former wife of the supposed husband of the defendant, to give parol evidence of her own divorce in a foreign country, according to the custom of the Jews there. (*Ganer v. Lanesborough*, Peake, C. N. P. 17; but see *R. v. Lolley*, *infra*.)

Foreign marriages.

A marriage celebrated out of England, according to the *lex loci*, is recognized in this country as a valid marriage, and not affected by the marriage acts. If the first marriage were in England, it is not a valid defence to prove a divorce *a vinculo matrimonii* out of England before the second marriage, founded on grounds (in that case, adultery) on which a marriage cannot be dissolved *a vinculo matrimonii* in England. *R. v. Lolley*, Russ. & Ry., C. C. R. 237; and see *Ganer v. Lanesborough*, *supra*.

Scotch marriage.

A marriage in Scotland, between English subjects, according to the Scotch law, is good in our courts, and not affected by the marriage acts. (*Dalrymple v. Dalrymple*, 2 Hagg. 64; *Harford v. Morris*, ib. 430.) A marriage in Scotland, by an infant, who was an English subject, without consent of parents or guardians, was held good by the Court of Delegates. (*Compton v. Bearcroft*, B. N. P. 113; see the 58 Geo. III. c. 84.)

Irish marriage.

A marriage in Ireland, by a clergyman of the established church, is good, though it takes place in a private room, without any special licence. (*Smith v. Maxwell*, 1 C. & P. 271.)

As to the marriage of minors, in Ireland, it is, by the Irish stat. 9 Geo. II. c. 11, enacted, "that any marriage of a person under twenty-one, without the consent of the father or guardians, shall be void; but if no such suit be commenced within one year after the marriage, it shall be good. Therefore, in the case of a prisoner indicted for bigamy, where it appeared that the first marriage, which was by licence, was celebrated in Ireland when he was under twenty-one, and that his father did not consent, this was held to be no defence, as more than a year had elapsed from the time of the marriage." (*R. v. Jacobs*, cor. Twelve Js. 1826; *R. v. Riordan*, cor. Twelve Js. 1828; *Carr*, C. L. 225; *R. & M. C. C.* 140, S. C.)

At the Ennis assizes, 1815, a person was tried, before the lord chief baron, for bigamy. In 1806, he was married by a catholic priest to his first wife, who was an Irish catholic, the prisoner stating that he was a Catholic. In

(a) The marriage of Quakers is solemnized by a public declaration of the parties, at a monthly meeting of the society, of their becoming man and wife and by a certificate to that effect, entered in a register signed by the parties, and by several subscribing witnesses. (*Dean v. Thomas*, 1 M. & M. 361.)

1815, he married his second wife, he then passing for a Protestant. This marriage was celebrated by a clergyman of the established church. The prisoner's counsel contended, that as the prisoner was in fact a Protestant at the time of the first marriage, it was void, as every marriage of a Catholic and a Protestant, by a Catholic priest, would be; and witnesses were called to show that, up to the time of the first marriage, the prisoner always went to church, and was considered a Protestant. The lord chief baron said, that the law was correctly stated by the prisoner's counsel, and left it to the jury to say whether they did not consider the prisoner to be a Catholic at the time of the first marriage. The jury found that he was so, and convicted him. (*R. v. Hanley*, 1815, *Car. C. L.* 254); see the 21 & 22 Geo. III. c. 25; 19 Geo. II. c. 13.)

1. *Offence and Punishment.*

Les Cinq Codes contain the following provisions respecting marriage. French marriage. (*Code Civil*, Art. 63):—"Before celebration of marriage, the officer of the civil state shall make two publications at eight days' interval, on *Sunday*, before the door of the town-hall. Such publications, and the act of them to be drawn up, shall set forth the prenomen, names, professions, and domiciles of the future couple, their state, either of full age or minority, and the prenomen, names, professions, and domiciles of their fathers and mothers. The act shall set forth moreover the days, places, and hours, where the publications shall have been made; it shall be inscribed upon a register by itself, which shall be marked and certified in manner prescribed by article 41 (a), and deposited, at the end of each year, in the registry of the tribunal of the district." "Art. 64.—An extract of the act of publication shall be affixed at the door of the town-hall, and shall remain so during the eight days' interval between the one and the other publication. The marriage cannot be celebrated before the third day after, and exclusive of that of the second publication." "Art. 61.—In case of opposition, the officer of the civil state may not celebrate the marriage before his receipt of the dismissal, under pain of a fine of three hundred francs and all damages." "Art. 74.—The marriage shall be celebrated in the township where one of the couple shall be domiciled. Such domicile, as to marriage, shall be established by *six months' continued habitation* in the same township." In the case of *Lacon v. Higgins*, *D. & R. N. P. C.* 40, *Stark.* 78, M. Nettement, the French vice-consul, resident in London, deposed as follows:—"Marriages celebrated in France contrary to the articles 63, 64, and 74, of the Code Civil, are absolutely null and void, and a marriage in violation of these articles is, in fact, no marriage at all; and the issue of such marriages are bastardized. A marriage between British subjects, if solemnized according to the law of England, at the British ambassador's, is recognized as valid in France; but then it must be registered by the ambassador, to render it operative; but if the parties are not married at the British ambassador's they must comply with the law of France in like manner as French subjects. And British subjects, *after a residence in France of six months*, may be married in the same manner as French subjects; but at the ambassador's they may be married without having resided six months in France. And even if persons lived together, and were acknowledged as man and wife, that circumstance would not avail, if the legality of the marriage came afterwards into question." In that case, two British subjects, who had been previously resident in Paris, went to Versailles to be married. The ceremony was performed at a hotel, by a clergyman of the church of England, in the presence of two witnesses. The clergyman gave a written certificate of the marriage, but that was not produced. After this marriage, the parties lived together, and were received every where as man and wife. It was also stated, that British subjects resident in Paris were usually married at the British ambassador's, where a register of marriages solemnized there is

(a) "Art. 41. The registers shall be numbered from first to last, and each leaf shall be signed by the president of the tribunal of First Instance, or by the judge supplying his place."

1. *Offence and Punishment.*

regularly kept. Upon these facts, and the evidence of M. Nettement (above stated), and a reference to the articles of the Code Civil, Abbott, C. J., said, "I am clearly of opinion that, according to the law of France, this marriage is invalid, and consequently must be so considered in an English court of justice." (*Car. C. L.* 257.)

Newfoundland.
Indian or colonial
marriages.

As to marriages in Newfoundland, see 5 Geo. IV. c. 68.

In the case of *Lautour v. Teesdale*, 8 Taun. 830, 2 Marsh 243, S. C., a marriage between two British subjects, solemnized by a Catholic priest, at Madras, followed by cohabitation, was held valid, though there had been no licence from the governor, which it had been, before then, the uniform custom to obtain. And Gibbs, C. J., said, "British subjects, settled at Madras, are governed by the laws of this country, which they carry with them, and are unaffected by the law of the natives. What is called the Marriage Act does not follow subjects to foreign settlements; and the question, therefore, is, whether it would have been a valid marriage here before that act passed." And his lordship lays down, that "a marriage between British subjects, celebrated in a British settlement, according to the laws of this country, as they existed before the Marriage Act," (a) is valid.

Marriages in am-
bassadors' houses,
British factories,
or in places of
which the British
government has
military posses-
sion.

By 4 Geo. IV. c. 91, "all marriages, solemnized by a minister of the church of England, in the chapel or house of any British ambassador or minister, residing within the country to the court of which he is accredited, or in the chapel belonging to any British factory abroad, or in the house of any British subject residing at such factory; and all marriages solemnized within the British lines, by any chaplain or officer, or other person officiating under the orders of the commanding officer of a British army serving abroad, shall be deemed valid." A marriage abroad, of a British subject, attached to a British army, which then had military possession of the place, is valid, if it would have been a valid marriage in England before the Marriage Act. (*R. v. Brampton*, 10 East, 282.)

Former consort
alive.

Shall marry any other person during the life of the former husband or wife shall be felony.]—A. married B. in Holland, and afterwards in the same country married C., in B.'s lifetime; B. died, and then living C., A. married D. in England. This was holden not to be within the act; because the marriage with C. was simply void. But if B. had been living, it would have been felony to have married D. in England. (*R. v. Lady Madison*, 1 Hale, 693; 1 East's P. C. 466.)

But though the first marriage be voidable, as by reason of consanguinity or the like, yet, being a marriage in judgment of law, and subsisting in fact at the time, till it be avoided, a second marriage would be within the act; such second marriage, however, is merely void. (1 East's P. C. 466; 3 Inst. 88.)

In *R. v. William Allison*, alias *William Wilkinson*, Russ. & R. C. C. 109; 1 Russ. C. & M. 207; the prisoner was tried before *Chambre, J.*, at the York Lent assizes, 1806, upon an indictment for bigamy, in marrying Ann Epton, on the 23rd May, 1804, Jane, his former wife, being then living. It was proved by Thomas Pape, with whom the prisoner formerly lived as servant, that he was present at the celebration of the marriage between the prisoner and Jane Chaplin, at the parish church of Ulroome, on the 27th of February, 1798. They were married by the curate of the parish. The prisoner quitted the service of the witness at the following May Day, and he had not known much of the parties since that time; but Jane was living on the 8th of October, 1805, on which day he saw her. Another witness proved that he was present at the prisoner's second marriage with Ann Epton; they were married at the parish church of Ottringham, by the curate of the parish, on Whit Wednesday, 1804, the prisoner then going by the name of

(a) This, and some of the other cases, 4 Geo. IV. c. 76, only applies to Eng-
were decided on the Marriage Act, 26 land, as that did. (*Carr. C. L.* 259.
Geo. II.; but the last Marriage Act, See title "*Marriage*." Vol. III.)

Wilkinson; the witness was there merely from curiosity. They lived together afterwards as man and wife. Jane, the first wife, died on the 1st of December, 1805. The jury convicted the prisoner; but *Chambre, J.*, respited the judgment, upon a doubt whether this evidence, without any proof of the registration of either marriage or of any licence or publication of banns, was sufficient to support a conviction. All the judges, except Lord *Ellenborough*, who was not present, in Easter Term, 1806, held the conviction right. And see *Mary Norwood's case*, *East's P. C.* 470; *Morris v. Miller*, 4 *Burr.* 2057.

Exceptions in statute 9 Geo. IV.]—As to the presumption of death in consequence of not having been heard of for seven years, see “*Evidence*,” statute. Vol. II.

The statute excepts the case of a second marriage where the party indicted was divorced from the bond of the first marriage. A divorce *à vinculo*, for adultery, in a court in Scotland, of persons married in England, is not within the statute; because no sentence or act of any foreign country or state can dissolve an *English* marriage *à vinculo*, for grounds for which it cannot be dissolved in *England*. (*R. v. Lolley*, *R. & R.* 237.)

The statute excepts the case of a second marriage where the former marriage was declared to be void by the sentence of a court of competent jurisdiction. The corresponding clause of the statute 1 *Jac.* 1, c. 11, s. 3, was held not to extend to the sentence of an ecclesiastical court in a cause of jactitation, (*Duchess of Kingston's case*, 11 *St. Tr.* 260); and even sentences within this clause of the act may be impeached upon the part of the crown, upon the ground of fraud or collusion. (*Id.* 1 *Ph. Ev.* 338.)

II. Indictment for.

The indictment must state the two marriages, and aver that the former consort was alive at the time of the second marriage. In the *Duchess of Kingston's case*, the first count stated generally that the defendant, on such a day, &c., being then married, and then the wife of A. J. H., with force and arms, at &c., did feloniously marry E. P., &c., the said A. J. H. being then alive, &c. The second count stated the time and place of the first as well as the second marriage. When the trial is in the country where the party was apprehended, there is an additional averment of that fact. (1 *East's P. C.* 469.)

We have already noticed the provision of the 9 *Geo. IV.* c. 31, s. 22, as to allowing the venue to be in the county where the offender was apprehended, or is in custody, *ante*, p. 246.

As to the County where the Offender was apprehended.]—This, according to the resolution in *Lord Digby's case*, may be in the place where the party is taken, which is the place where he is imprisoned. And it is only cumulative; for he may be indicted where the second marriage was, though he be never apprehended; and so may be outlawed. (1 *Hale*, 694; 1 *Russ.* 289, 290; *Hutt.* 131.)

Where the prisoner, having been apprehended for another offence, is detained in the same county for bigamy, the detainer is such an apprehension as will warrant the indicting him in that county. (*R. v. James Jordan*, otherwise *James Weaver*, *Russ. & R. C. C.* 48; 1 *Russ. C. & M.* 192.) The prisoner was tried before *Lawrence, J.*, at the summer assizes for the county of Worcester, 1802, on an indictment charging him with felony, in marrying, on the 7th of June, 1802, one Elizabeth Lane, in the parish of St. Clement's in the county of the city of Worcester, Mary Taylor, his former wife, being then living, and that he was apprehended for the felony aforesaid at the parish of Astley, in the county of Worcester. The facts of both marriages were proved; and that the prisoner was apprehended in the county of Worcester on a charge of stealing two hammers of one William Collins,

3. Evidence.

and that being in the house of correction on that charge, a bill of indictment was found against him for this bigamy at the quarter sessions, and, on the bill being found, he was detained by an order of that court. It appeared further in evidence that he was a bastard, and married Mary Taylor before he was of the age of 21 years, and when he was about 20 years old. The counsel for the prisoner made two objections to his conviction—Firstly. That an indictment could be preferred against him for this offence only in the county where the *second* marriage was, or in some other county where he was apprehended for that offence, whereas the defendant was apprehended in the county of the city of Worcester, not for this bigamy, but for a larceny. And, if that were otherwise, the prisoner could not be convicted on this indictment, as it charged he was apprehended in the county for this felony, which was not proved, as his apprehension was for a larceny. Secondly. That this was not a case within the 1 Jac. I. c. 11, there being a provision in the third *section* of that statute that it shall not extend to any person for or by reason of any former marriage had within age of consent, which age was insisted, since the 26 Geo. II. c. 33, to be twenty-one, and not, as at the time of passing the statute, fourteen in males and twelve in females. The jury found the prisoner guilty, but the learned judge reserved these points for the consideration of the judges. In Hilary Term, 1803, the judges determined the conviction to be right, being of opinion upon the first point, that as the prisoner was in custody on a criminal charge, he was liable to be tried where he was imprisoned, (See *Lord Digby's case*, *Hutt.* 131, upon stat. 3 Jac. I. c. 4, and also *Forsyth's case*, 2 *Leach*, 826.)

Names of wives.

As to the mode of describing the wives' names, see in general "*Indictment*," Vol. III. In *Rex v. Deeley*, where the prisoner was convicted at the Old Bailey April sessions, 1831, of bigamy, on an indictment for marrying "*Elizabeth Chant, widow*," his former wife being alive; and it appeared in evidence that Elizabeth Chant was a *spinster*; on a case reserved, the twelve judges held the variance fatal, and that the prisoner was entitled to his discharge.

III. Evidence.

Proof of the marriages.

In respect to the manner of proving the two marriages, the first must be duly established to be valid, according to the rites and customs of the country in which it was celebrated. (1 *East's P. C.* 469; *per Bailey, J., Smith v. Huson, Deleg. T.* 1811, citing a case reserved for the opinion of the judges, K. B., M. 1803; 1 *Phil. Evid.* 287.)

Where the first marriage, which was with a Roman-Catholic woman, was by a Romish priest in England, not according to the ritual of the church of England, and the ceremony was performed in Latin, but the witnesses, not understanding that language, could not swear that the ceremony of marriage according to the church of Rome was read, the defendant was acquitted (a). But Lord Chief Justice Willis, who tried him, seemed to be of opinion that a marriage by a priest of the church of Rome was a good marriage if the ceremony according to that church could be proved,—namely, the words of the contracting part of it. But this was before the Marriage Act. (*Lycn's case*, *Old Bailey*, Dec. 1738; 1 *East's P. C.* 469; see *Fielding's case*, 14 *How. St. Tr.* 1328.)

If the marriage was celebrated in this country, it may be proved by the production of the register of the marriage, or an examined copy of it, together with some proof, either direct or presumptive, of the identity of the parties (*Jervis, Arch. C. L.* 6 ed. 540, Vol. II. p. 59). And if the marriage were by licence, and it appear that either of the parties were a minor at the time, the prosecutor must further prove that the marriage was solemnized with the consent of the father, guardian, or mother of the minor,

(a) The second marriage was by a clergyman of the established church.

as required by the Marriage Act. (*R. v. Bridgewater*, and *R. v. Butler*, 3. Evidence. 1 *Russ.* 294; *R. & R.* 61, S. C.; per Bayley, J., in *Smith v. Huson*, 1 *Phil.* 287; *Jervis, Arch. C. L.* 6 ed. 541.) The marriage may be proved by some person who was present at it; and in that case it is not necessary to prove the registration, or licence, or banns. (*R. v. Allison, Russ. & Ry. C. C. R.* 109; *ante*, 250, S. C.)

The law will not presume marriage in cases of bigamy, as it will in civil cases. (*Smith v. Huson*, 1 *Phil.* 287.)

If the marriage was celebrated abroad, it may be proved by any person who was present at it; and such circumstances should also be proved, from which the jury may presume that it was a valid marriage according to the laws of the country in which it was celebrated. Proof that the ceremony was performed by a person appearing and officiating as a priest, and that it was understood by the parties to be the marriage ceremony according to the rites and custom of the foreign country, would be sufficient presumptive evidence of it (see *R. v. Brampton*, 10 *East*, 282), so as to throw upon the defendant the onus impugning its validity. (See *Arch. C. L.* 294; and as to proof of foreign laws, see Vol. II. p. 49.) The law of France as to marriage, was proved by production of a book purporting to contain the code of France, and proved by oral testimony to contain the law of France; the book purporting to have been published at the royal printing-office, which was (according to the statement of the witness) authorized to print the laws of France by the government. (*Lacon v. Higgins*, 3 *Stark. R.* 178. As to foreign registers, see Vol. II. p. 45.)

How far the acknowledgment of the defendant upon the subject of his marriage is sufficient evidence of the fact, may admit of some doubt. In *Trueman's case* it was held, that proof of the prisoner's cohabiting with and acknowledging himself married to a former wife, then living, such assertion being backed by his producing to the witness a copy of the proceeding in a Scotch court against him and his wife for having contracted the marriage improperly (the marriage, however, being still good according to that law), was sufficient evidence of the first marriage; and upon such evidence, together with due proof of the second marriage, the prisoner was convicted. The point being reserved for the opinion of the judges, all of them (with the exception of *Perryn*, B. and *Buller*, J. who were absent), held the conviction proper. Two of them observed that this did not rest upon cohabitation and bare acknowledgment; for the defendant had backed his assertion by the production of the copy of the proceedings: but some of the judges thought that the acknowledgment alone would have been sufficient, and that the paper produced in evidence was only a confirmation of such acknowledgment. (*Trueman's case*, *Nottingham Spring Ass.* 1795; 1 *East's P. C.* 470.)

How far the acknowledgment of the defendant is evidence.

With respect to the admission of a bare acknowledgment in cases of this nature, Mr. East says (1 *P. C.* 471), it may be difficult to say that it is not evidence to go to the jury, like the acknowledgment of any other matter *in pais*, where it is made by a party to his own prejudice at the time. But it must be admitted that it may, under circumstances, be entitled to little or no weight; for such acknowledgments, made without consideration of the consequences, and palpably for other purposes at the time, are scarcely deserving of that name, in the sense in which acknowledgments are received as evidence; more especially if made before the second marriage, or upon occasions when, in truth, they cannot be said to be to the party's own prejudice, nor so conceived by him at the time.

As to proving the averment of the party being apprehended in the county where the venue is laid, see *ante*, 251.

Apprehension of defendant.

The first and true wife is not to be allowed as a witness against the husband, nor *vice versa*; but it seemeth clear that the second wife may be admitted to prove the second marriage, being not so much as his wife *de facto*. (1 *Hale*, 693; 4 *Blac. C.* 164; 1 *Phil. E.* 78; 2 *Chit. C. L.* 719; *ante*, Vol. II. 81.)

First wife cannot be a witness.

4. Forms.

IV. Forms.

(1.) Commitment
for bigamy.

Commencement as usual, as *ante*, p. 175, No. 1.] —, on the day of
 , A. B. at the parish of in the said county, feloniously
 and unlawfully did marry and take to wife one E. F., C. B., his former wife, to
 whom the said A. B. was previously married, being then alive: against the form
 of the statute in that case made and provided. And you, the said keeper, &c. [as
 usual, as *ante*, No. 175, to the end.]

(2.) Commitment
for polygamy (a).

County of , } To the keeper of his majesty's gaol at , in the said
 to wit. } county.

Receive into your custody, in the said gaol, and there safely keep, until he shall
 be discharged by due course of law, the body of A. O., herewith sent you, and
 charged before me, W. S., Esq., one of his majesty's justices of the peace in and
 for the said county, on the oaths of C. D., E. F., and others, for that he, the
 said A. O., on the day of , in the year of our Lord 18 , at the
 parish of , in the county of , did marry one G. H., spinster, and
 her, the said G. H., then and there had for his wife; and that the said A. O.
 afterwards, to wit, on the day of , in the year aforesaid, in the
 parish aforesaid, feloniously did marry and take to wife one L. S., spinster, the
 said G. H., his former wife, being then living, against the form of the statute in
 that case made and provided; the said C. D. having also made oath before me,
 the said justice, that the said A. O. was apprehended and taken for the said
 felony, in the parish of , in the said county of . Given under
 my hand and seal, this day of , one thousand eight hundred and .

(3.) Indictment
for bigamy.

— (venue) to wit. The jurors for our lord the king upon their oath
 present, that C. D., late of the parish of , in the county of ,
 labourer, on the day of , in the year of the reign of
 our lord the now king William the Fourth, at the parish aforesaid, in the
 county aforesaid, did marry one E. F., spinster, and her, the said E. F., then
 and there had for his wife; and that the said C. D. afterwards, and whilst he was
 so married to the said E. F. as aforesaid, to wit, on the day of , in
 the year of the reign aforesaid, at the parish of , in the county of ,
 feloniously and unlawfully did marry and take to wife one G. H., and
 to her, the said G. H., was then and there married, the said E. F., his former wife,
 being then alive; against the form of the statute in such case made and provided,
 and against the peace of our said lord the king, his crown and dignity. And the
 jurors aforesaid, upon their oath aforesaid, do further present, that the said C. D.
 afterwards, to wit, on &c., was apprehended and taken for the felony aforesaid,
 at the parish of , in the county of aforesaid. [Omit this latter
 averment, if the second marriage took place in the county wherein the defendant is
 indicted.]

Ponds. See "Fish," Vol. II.; "Malicious Injury to Property,"
 Vol. III.

Poor. See Vol. IV.

(a) Toone's M. M. 94; 4 Chit. C. L. 85.

Popery.

- I. *General Observations*, 255.
- II. *Toleration of Catholics* 256.
- III. *Miscellaneous Statutory Provisions against Papists and Popery*, 265.

I. General Observations.

PERSONS professing the Roman Catholic religion are no longer subject to the innumerable disabilities and inconveniences to which they were so long liable. General observations.

By the 10 Geo. IV. c. 7, commonly called "The Catholic Relief Bill," generally speaking, this body of dissenters are now on an equal footing with their other fellow subjects. As far as they are concerned, all offensive tests and declarations are abolished; and the laity, upon taking the oaths prescribed by the new act, are eligible "to hold, exercise, and enjoy, all civil and military offices or places of trust and profit under his majesty, his heirs and successors, and to exercise any other franchise or civil right, except guardians and justices of the United Kingdom, regent of the United Kingdom, or lord high chancellor, or lord keeper, or lord commissioner of the great seal of Great Britain or Ireland, or lord lieutenant, or lord deputy, or other chief governor or governors of Ireland, or his majesty's high commissioner to the church in Scotland."

However, neither scholarships nor fellowships, except of medicine in Ireland, even on lay foundations, are open to Roman Catholics in any of the universities; and though admitted to "degrees" in Ireland, in England they are not. Nor can they present to livings, or advise the crown on presentations thereto; and they are still labouring under a serious annoyance concerning their marriage ceremony; but a bill has been introduced with the sanction of government to remedy this grievance.

There are many clauses of a scrutinising character, relative to the Roman Catholic clergy and religious orders, embodied in the 10 Geo. IV., but none of them have ever been acted on; and sect. 24, forbidding (under the penalty of 100*l.*) the assumption of titles to "sees," is scarcely applicable to Great Britain: the diocesan superiors of this persuasion being entitled, throughout England, Scotland, and Wales, "apostolic vicars," not bishops, of the particular districts in which they happen to be located.

A recusant is any person who refuses to go to church and worship God after the manner of the church of England; a popish recusant was, before the recent acts for the relief of Roman Catholics, a papist who so refused; and a popish recusant convict was a papist legally convicted thereof. Recusant.
Popish recusant.

There were several statutes made against recusants in Queen Elizabeth's reign, and the former part of the reign of King James the First, the force of which, as to protestant dissenters, is taken away by the Act of Toleration; but no papist or popish recusant was to have any benefit by that act.

II. Toleration of Catholics.

31 Geo. 3, c. 32.

By the 31 Geo. III. c. 32, s. 1, it shall be lawful for persons professing the Roman Catholic religion to appear in any of the courts at Westminster, or at the general quarter sessions for the county, city, or place where he shall reside, and there in open court, between the hours of nine in the morning and two in the afternoon, take, make, and subscribe the following declaration and oath; viz.:—

Declaration.

"I, A. B., do hereby declare, that I do profess the Roman Catholic religion."

Oath.

"I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to his majesty king _____, and him will defend to the utmost of my power against all conspiracies and attempts whatever that shall be made against his person, crown, or dignity; and I will do my utmost endeavour to disclose and make known to his majesty, his heirs and successors, all treasons and traitorous conspiracies which may be formed against him or them: And I do faithfully promise to maintain, support, and defend to the utmost of my power the succession of the crown; which succession, by an act, intituled 'An Act for the further Limitation of the Crown and better security of the Rights and Liberties of the Subject,' is and stands limited to the Princess Sophia, Electress and Duchess Dowager of Hanover, and the heirs of her body, being protestants, hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of these realms. And I do swear, that I do reject and detest, as an unchristian and impious position, that it is lawful to murder or destroy any person or persons whatsoever, for or under pretence of their being heretics or infidels; and also that unchristian and impious principle, that faith is not to be kept with heretics or infidels. And I do further declare that it is not an article of my faith, and that I do renounce, reject, and abjure the opinion, that princes excommunicated by the pope in council, or any authority of the see of Rome, or by any authority whatsoever, may be deposed or murdered by their subjects, or any person whatsoever. And I do promise that I will not hold, maintain, or abet any such opinion, or any other opinion contrary to what is expressed in this declaration. And I do declare that I do not believe that the Pope of Rome, or any other foreign prince, prelate, state or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this realm. And I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration and every part thereof in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatever; and without any dispensation already granted by the pope, or any authority of the see of Rome, or any person whatever; and without thinking that I am or can be acquitted before God or man, or absolved of this declaration or any part thereof, although the pope or any other person or authority whatsoever shall dispense with or annul the same, or declare that it was null or void. So help me God."

Certificate thereof
to be given.

Which said declaration and oath shall be subscribed by such person. And the proper officer shall make, subscribe, and deliver a certificate of such declaration and oath having been duly made and taken, if demanded, for which he shall have 2s.; which certificate shall be competent evidence, unless falsified.

Not required to
resort to church.

Sect. 3. And no Roman Catholic, who shall have taken and subscribed the said oath, as aforesaid, shall be convicted upon any of the acts following: viz. 1 Eliz. c. 2; 23 Eliz. c. 1; 29 Eliz. c. 6; 35 Eliz. c. 2; 1 Jac. I. c. 4; 3 Jac. I. c. 4; 3 Jac. I. c. 5; and 7 Jac. I. c. 6; or any other statute or law of this realm, or in any ecclesiastical court, for not resorting to church, or having servants who shall not resort to church, or other place of common prayer.

Not prosecutable
for being a papist

Sect. 4. And whereas, by stats. 23 Eliz. c. 2; 27 Eliz. c. 2; 35 Eliz. c. 2; 1 Jac. I. c. 4; 3 Jac. I. c. 5; 3 Car. I. c. 2; and 25 Car. II. c. 2; papists are made subject to several punishments, penalties, and disabilities, it is enacted, that no person who shall take and subscribe the said oath in manner

aforesaid shall be prosecuted or convicted for being a papist, or reputed papist; or for professing or being educated in the popish religion; or for hearing or saying mass; or for being a priest or deacon; or entering or belonging to any ecclesiastical order or community of the church of Rome; or for being present at, or performing or observing, any rite, ceremony, practice, or observance of the popish religion, or maintaining or assisting others therein.

2. *Toleration of Catholics.*

53 Geo. 3, c. 128.

Sect. 5. Provided always, that no place of congregation or assembly for religious worship shall be allowed, until the place of such meeting shall be certified to the sessions of the county or place in which the same shall be held, and be there recorded; and the clerk of the peace shall give a certificate thereof, if demanded, for which he shall have 6*d.* And no minister or other person shall officiate in any such place of meeting until his name and description as a priest or minister shall have been recorded at the sessions; for which shall be paid 6*d.*, and a certificate thereof shall be granted, if demanded, for which shall be paid 2*s.* And no priest or minister who shall officiate in any such meeting not so recorded, as aforesaid, shall be deemed to be within the benefit of this act, for any purpose whatsoever.

Places of meeting to be certified to sessions;

and minister's name to be recorded there.

Sect. 6. Provided that if any such place of assembly shall have the doors locked, barred, or bolted, during the time of meeting, all persons who shall come to or be at such meeting shall receive no benefit from this act, notwithstanding his having taken such oath, as aforesaid, but shall be liable to the same pains and penalties as if this act had not been made.

Places of assembly not to be locked.

Sect. 10. And if any person shall wilfully and on purpose maliciously and contemptuously come into any congregation or assembly of religious worship permitted by this act, and disturb the same, or misuse any priest, minister, preacher, or teacher therein, he shall, on proof by two witnesses, before one justice, find two sureties of the peace to be bound by recognizance in 50*l.*, and in default thereof shall be committed to prison till the next sessions, and on conviction of such offence at the sessions, shall forfeit 20*l.* to the king.

Disturbing congregations, or misusing priests.

Sect. 18, 19. No person shall be summoned to take the oath required by the 1 Wil. & Mary, sess. 1, c. 8, or the declaration required by the 25 Car. II. c. 2. Nor shall the 1 Wil. & Mary, sess. 1, c. 9, for removing papists from London and Westminster extend to Roman Catholics who shall have taken and subscribed the oath, &c., herein appointed.

Not required to take certain oaths.

Sect. 20. No peer who shall have taken and subscribed the said oath, &c., in manner aforesaid, shall be liable to be prosecuted under 30 Car. II. st. 2, s. 5.

Peers.

By the 53 Geo. III. c. 128, s. 1, all such of his majesty's popish or Roman Catholic subjects as hold, exercise, and enjoy any civil or military office or offices, or place or places of trust or profit, or other office or situation whatsoever, granted to them or any of them in Ireland, under the authority of the 33 Geo. III. of the Parliament of Ireland, and who shall have duly taken the oaths and declaration required by the said act, shall not, in respect of any such office, place, or situation, be liable, in England, Wales, Berwick-upon-Tweed, or in his majesty's navy, or in the Islands of Jersey or Guernsey, to any of the pains, &c. enacted by the 25 Car. II. c. 2, and shall also be wholly exempt from any pains, &c. whatsoever in the said several places last mentioned, for not making, taking, and subscribing the oaths of allegiance, supremacy, or abjuration, or not making, taking, and subscribing the declaration required to be taken to enable any person to hold and enjoy any office or place of trust or profit, or for not receiving the sacrament of the Lord's supper according to the rights and ceremonies of the church of England; any thing contained in any act of parliament to the contrary notwithstanding.

Regulations as to taking of commissions in army.

Sect. 2. And if any of his said majesty's popish or Roman Catholic subjects, having duly taken the oaths and declaration required by this act, shall take or have taken in Ireland a commission in his majesty's army, and shall afterwards take a higher commission or higher commissions in Great Britain,

2. *Toleration of Catholics.*

10 Geo. 4, c. 7.

Acts relating to declarations against transubstantiation repealed.

Roman Catholics may sit and vote in Parliament, on taking the following oath.

Name of sovereign to be used in the oath.

No Roman Catholic capable of sitting or voting

within the intent and meaning of the said act; or if any person having enlisted as a private in any regiment in Ireland, or being a non-commissioned officer in such regiment, shall afterwards take or have taken a commission in the said or any other regiment in Great Britain, and shall have duly taken the oaths and declaration required by the said act, he shall not, in respect of such commission, be liable, in England, Wales, Berwick-upon-Tweed, or in his majesty's navy, or in the islands of Jersey or Guernsey, to any of the pains, &c. in said 25 Car. II. c. 2, and shall also be wholly freed, &c., as in s. 1.

By the 10 Geo. IV. c. 7, intituled "An Act for the Relief of his Majesty's Roman Catholic subjects," it is enacted, "all such parts of the said acts as require the said declarations, or either of them, to be made or subscribed by any of his majesty's subjects, as a qualification for sitting and voting in parliament, or for the exercise or enjoyment of any office, franchise, or civil right, be and the same are (save as hereinafter provided and excepted) hereby repealed."

Sect. 2. "It shall be lawful for any person professing the Roman Catholic religion, being a peer, or who shall after the commencement of this act be returned as a member of the House of Commons, to sit and vote in either house of Parliament respectively, being in all other respects duly qualified to sit and vote therein, upon taking and subscribing the following oath, instead of the oaths of allegiance, supremacy, and abjuration:

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to his majesty king [George the Fourth], and will defend him to the utmost of my power against all conspiracies and attempts whatever, which shall be made against his person, crown, or dignity; and I will do my utmost endeavour to disclose and make known to his majesty, his heirs and successors, all treasons and traitorous conspiracies which may be formed against him or them: and I do faithfully promise to maintain, support, and defend, to the utmost of my power, the succession of the crown, which succession, by an act, intituled 'An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject,' is and stands limited to the Princess Sophia, Electress of Hanover, and the heirs of her body, being protestants; hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of this realm: and I do further declare, that it is not an article of my faith, and that I do renounce, reject, and abjure the opinion, that princes excommunicated or deprived by the pope, or any other authority of the see of Rome, may be deposed or murdered by their subjects, or by any person whatsoever: and I do declare, that I do not believe that the Pope of Rome, or any other foreign prince, prelate, person, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this realm. I do swear, that I will defend to the utmost of my power the settlement of property within this realm, as established by the laws: and I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present church establishment, as settled by law within this realm: and I do solemnly swear that I never will exercise any privilege to which I am or may become entitled, to disturb or weaken the protestant religion or protestant government in the United Kingdom: and I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatsoever. So help me God."

Sect. 3. "Wherever, in the oath hereby appointed and set forth, the name of his present majesty is expressed or referred to, the name of the sovereign of this kingdom for the time being, by virtue of the act for the further limitation of the crown and better securing the rights and liberties of the subject, shall be substituted from time to time, with proper words of reference thereto."

Sect. 4. "No peer professing the Roman Catholic religion, and no person professing the Roman Catholic religion, who shall be returned a member of the House of Commons after the commencement of this act, shall be capable

of sitting or voting in either house of parliament respectively, unless he shall first take and subscribe the oath hereinbefore appointed and set forth, before the same persons, at the same times and places, and in the same manner as the oaths and the declaration now required by law are respectively directed to be taken, made, and subscribed; and that any such person professing the Roman Catholic religion, who shall sit or vote in either house of parliament, without having first taken and subscribed, in the manner aforesaid, the oath in this act appointed and set forth, shall be subject to the same penalties, forfeitures, and disabilities, and the offence of so sitting or voting shall be followed and attended by and with the same consequences, as are by law enacted and provided in the case of persons sitting or voting in either house of parliament respectively, without the taking, making, and subscribing the oaths and the declaration now required by law."

Sect. 5. "It shall be lawful for persons professing the Roman Catholic religion to vote at elections of members to serve in parliament for England and for Ireland, and also to vote at the elections of representative peers of Scotland and of Ireland, and to be elected such representative peers, being in all other respects duly qualified, upon taking and subscribing the oath hereinbefore appointed and set forth, instead of the oaths of allegiance, supremacy, and abjuration, and instead of the declaration now by law required, and instead also of such other oath or oaths as are now by law required to be taken by any of his majesty's subjects professing the Roman Catholic religion, and upon taking also such other oath or oaths as may now be lawfully tendered to any persons offering to vote at such elections."

Sect. 6. "The oath hereinbefore appointed and set forth shall be administered to his majesty's subjects professing the Roman Catholic religion, for the purpose of enabling them to vote in any of the cases aforesaid, in the same manner, at the same time, and by the same officers or other persons as the oaths for which it is hereby substituted are or may be now by law administered; and that in all cases in which a certificate of the taking, making, or subscribing of any of the oaths or of the declaration now required by law is directed to be given, a like certificate of the taking or subscribing of the oath hereby appointed and set forth shall be given by the same officer or other person, and in the same manner as the certificate now required by law is directed to be given, and shall be of the like force and effect."

Sect. 7. "In all cases where the persons now authorized by law to administer the oaths of allegiance, supremacy, and abjuration to persons voting at elections, are themselves required to take an oath previous to their administering such oaths, they shall, in addition to the oath now by them taken, take an oath for the duly administering the oath hereby appointed and set forth, and for the duly granting certificates of the same."

Sect. 8. "Whereas in an act of the parliament of Scotland made in the eighth and ninth session of the first parliament of King William the Third, intituled 'An Act for the preventing the Growth of Popery,' a certain declaration or formula is therein contained, which it is expedient should no longer be required to be taken and subscribed: it is enacted, "That such parts of any acts as authorize the said declaration or formula to be tendered, or require the same to be taken, sworn, and subscribed, shall be and the same are hereby repealed, except as to such offices, places, and rights as are hereinafter excepted; and that from and after the commencement of this act it shall be lawful for persons professing the Roman Catholic religion to elect and be elected members to serve in parliament for Scotland, and to be enrolled as freeholders in any shire or stewartry of Scotland, and to be chosen commissioners or delegates for choosing burgesses to serve in parliament for any districts or burghs in Scotland, being in all other respects duly qualified, such persons always taking and subscribing the oath hereinbefore appointed and set forth, instead of the oaths of allegiance and abjuration as now required by law, at such time as the said last-mentioned oaths, or either of them, are now required by law to be taken."

2. Toleration of Catholics.

10 Geo. 4, c. 7.

until he has taken the oath.

May vote at elections, and be elected, upon taking the oath.

Oath shall be administered in the same manner as former oaths.

Persons administering oaths at elections to take an oath duly to administer.

So much of any acts as require the formula contained in 8 & 9 Wil. 3, c. 3, (S.) to be tendered or taken, repealed.

Roman Catholics may elect and be elected members for Scotland.

2. *Toleration of Catholics.*

10 Geo. 4, c. 7.

No Roman Catholic priest to sit in House of Commons.

Roman Catholics may hold civil and military offices under his majesty, with certain exceptions.

Not to exempt Roman Catholics from taking any other oaths required.

Offices withheld from Roman Catholics.

Nothing herein to repeal 7 Geo. 4, c. 72.

Roman Catholics may be members of lay corporations.

Such members of corporations not to vote in ecclesiastical appointments.

Sect. 9. "No person in holy orders in the church of Rome shall be capable of being elected to serve in parliament as a member of the House of Commons; and if any such person shall be elected to serve in parliament as aforesaid, such election shall be void; and if any person being elected to serve in parliament as a member of the House of Commons, shall, after his election, take or receive holy orders in the church of Rome, the seat of such person shall immediately become void; and if any such person shall, in any of the cases aforesaid, presume to sit or vote as a member of the House of Commons, he shall be subject to the same penalties, forfeitures, and disabilities as are enacted by an act passed in the forty-first year of the reign of king George the Third, intituled 'An Act to remove Doubts respecting the Eligibility of Persons in Holy Orders to sit in the House of Commons;' and proof of the celebration of any religious service by such person, according to the rites of the church of Rome, shall be deemed and taken to be *prima facie* evidence of the fact of such person being in holy orders, within the intent and meaning of this act."

Sect. 10. "It shall be lawful for any of his majesty's subjects professing the Roman Catholic religion to hold, exercise, and enjoy all civil and military offices and places of trust or profit under his majesty, his heirs or successors, and to exercise any other franchise or civil right, except as hereinafter excepted, upon taking and subscribing, at the times and in the manner hereinafter mentioned, the oath hereinbefore appointed and set forth, instead of the oaths of allegiance, supremacy, and abjuration, and instead of such other oath or oaths as are or may be now by law required to be taken for the purpose aforesaid by any of his majesty's subjects professing the Roman Catholic religion."

Sect. 11. "Nothing herein contained shall be construed to exempt any person professing the Roman Catholic religion from the necessity of taking any oath or oaths, or making any declaration, not hereinbefore mentioned, which are or may be by law required to be taken or subscribed by any person on his admission into any such office or place of trust or profit as aforesaid."

Sect. 12. "That nothing herein contained shall extend or be construed to extend to enable any person or persons professing the Roman Catholic religion to hold or exercise the office of guardians and justices of the United Kingdom, or of regent of the United Kingdom, under whatever name, style, or title such office may be constituted; nor to enable any person, otherwise than he is now by law enabled, to hold or enjoy the office of lord high chancellor, lord keeper or lord commissioner of the great seal of Great Britain or Ireland; or the office of lord lieutenant, or lord deputy, or other chief governor or governors of Ireland; or his majesty's high commissioner to the general assembly of the Church of Scotland."

Sect. 13. "Nothing herein contained shall be construed to affect or alter any of the provisions of an act passed in the seventh year of his present majesty's reign, intituled 'An Act to consolidate and amend the Laws which regulate the Levy and Application of Church Rates and Parish Cesses, and the Election of Churchwardens, and the Maintenance of Parish Clerks, in Ireland.'"

Sect. 14. "It shall be lawful for any of his majesty's subjects professing the Roman Catholic religion to be a member of any lay body corporate, and to hold any civil office or place of trust or profit therein, and to do any corporate act, or vote in any corporate election or other proceeding, upon taking and subscribing the oath hereby appointed and set forth, instead of the oaths of allegiance, supremacy, and abjuration; and upon taking also such other oath or oaths as may now by law be required to be taken by any persons becoming members of such lay body corporate, or being admitted to hold any office or place of trust or profit within the same."

Sect. 15. "Nothing herein contained shall extend to authorize or empower any of his majesty's subjects professing the Roman Catholic religion, and being a member of any lay body corporate, to give any vote at, or in any manner to join in the election, presentation, or appointment of any person

to any ecclesiastical benefice whatsoever, or any office or place belonging to or connected with the United Church of England and Ireland, or the Church of Scotland, being in the gift, patronage, or disposal of such lay corporate body." 2. *Toleration of Catholics.*

10 Geo. 4, c. 7.

Sect. 16. "Nothing in this act contained shall be construed to enable any persons, otherwise than as they are now by law enabled, to hold, enjoy, or exercise any office, place, or dignity of, in, or belonging to the United Church of England and Ireland, or the Church of Scotland, or any place or office whatever of, in, or belonging to any of the ecclesiastical courts of judicature of England and Ireland respectively, or any court of appeal from or review of the sentences of such courts, or of, in, or belonging to the Commissary Court of Edinburgh, or of, in, or belonging to any cathedral or collegiate or ecclesiastical establishment or foundation; or any office or place whatever of, in, or belonging to any of the universities of this realm; or any office or place whatever, and by whatever name the same may be called, of, in, or belonging to any of the colleges or halls of the said universities, or the colleges of Eton, Westminster, or Winchester, or any college or school within this realm; or to repeal, abrogate, or in any manner to interfere with any local statute, ordinance, or rule, which is or shall be established by competent authority within any university, college, hall, or school, by which Roman Catholics shall be prevented from being admitted thereto, or from residing or taking degrees therein: provided also, that nothing herein contained shall extend or be construed to extend to enable any person, otherwise than as he is now by law enabled, to exercise any right of presentation to any ecclesiastical benefice whatsoever; or to repeal, vary, or alter in any manner the laws now in force in respect to the right of presentation to any ecclesiastical benefice."

Not to extend to offices, &c. in the established church, ecclesiastical courts, universities, colleges, or schools;

nor to presentations to benefices.

"Sect. 17. "Provided, that where any right of presentation to any ecclesiastical benefice shall belong to any office in the gift or appointment of his majesty, his heirs or successors, and such office shall be held by a person professing the Roman Catholic religion, the right of presentation shall devolve upon and be exercised by the Archbishop of Canterbury for the time being."

Proviso for presentations to benefices connected with offices.

Sect. 18. "It shall not be lawful for any person professing the Roman Catholic religion, directly or indirectly, to advise his majesty, his heirs or successors, or any person or persons holding or exercising the office of guardians of the United Kingdom, or of regent of the United Kingdom, under whatever name, style, or title such office may be constituted, or the lord lieutenant, or lord deputy, or other chief governor or governors of Ireland, touching or concerning the appointment to or disposal of any office or preferment in the United Church of England and Ireland, or in the Church of Scotland; and if any such person shall offend in the premises, he shall, being thereof convicted by due course of law, be deemed guilty of a high misdemeanor, and disabled for ever from holding any office, civil or military, under the crown."

No Roman Catholic to advise the crown in the appointment to offices in the established church.

Sect. 19. "Every person professing the Roman Catholic religion, who shall, after the commencement of this act, be placed, elected, or chosen in or to the office of mayor, provost, alderman, recorder, bailiff, town-clerk, magistrate, councillor, or common councilman, or in or to any office of magistracy, or place of trust or employment relating to the government of any city, corporation, borough, burgh, or district, within the United Kingdom of Great Britain and Ireland, shall, within one calendar month next before or upon his admission into any of the same respectively, take and subscribe the oath herein-before appointed and set forth, in the presence of such person or persons respectively as by the charters or usages of the said respective cities, corporations, burghs, boroughs, or districts, ought to administer the oath for the due execution of the said offices or places respectively; and, in default of such, in the presence of two justices of the peace, councillors, or magistrates, of the said cities, corporations, burghs, boroughs, or districts, if such there be; or, otherwise, in the presence of two justices of the peace of the respective counties, ridings, divisions, or franchises, wherein the said cities, corpo-

Time and manner of taking oaths for corporate offices.

2. *Toleration of Catholics.*

10 Geo. 4, c. 7.

Time and manner of taking oaths for other offices.

rations, burghs, boroughs, or districts are; which said oath shall either be entered in a book, roll, or other record, to be kept for that purpose, or shall be filed amongst the records of the city, corporation, burgh, borough, or district."

Sect. 20. "Every person professing the Roman Catholic religion who shall, after the commencement of this act, be appointed to any office or place of trust or profit under his majesty, his heirs or successors, shall within three calendar months next before such appointment, or, otherwise, shall, before he presumes to exercise or enjoy, or in any manner to act in, such office or place, take and subscribe the oath herein-before appointed and set forth, either in his majesty's high Court of Chancery, or in any of his majesty's Courts of King's Bench, Common Pleas, or Exchequer, at Westminster or Dublin; or before any judge of assize, or in any court of general or quarter sessions of the peace in Great Britain or Ireland, for the county or place where the person so taking and subscribing the oath shall reside; or in any of his majesty's courts of session, justiciary, exchequer, or jury court, or in any sheriff or steward court, or in any burgh court, or before the magistrates and councillors of any royal burgh in Scotland, between the hours of nine in the morning and four in the afternoon; and the proper officer of the court in which such oath shall be so taken and subscribed shall cause the same to be preserved amongst the records of the court; and such officer shall make, sign, and deliver a certificate of such oath having been duly taken and subscribed, as often as the same shall be demanded of him, upon payment of two shillings and sixpence for the same; and such certificate shall be sufficient evidence of the person therein named having duly taken and subscribed such oath."

Penalty on acting in offices without taking the oath.

Sect. 21. "If any person professing the Roman Catholic religion shall enter upon the exercise or enjoyment of any office, or place of trust or profit, under his majesty, or of any other office or franchise, not having in the manner and at the times aforesaid taken and subscribed the oath herein-before appointed and set forth, then, and in every such case, such person shall forfeit to his majesty the sum of 200*l.*; and the appointment of such person to the office, place, or franchise so by him held shall become altogether void, and the office, place, or franchise shall be deemed and taken to be vacant, to all intents and purposes whatsoever."

Oaths by military and naval officers.

Sect. 22. "Provided that, for and notwithstanding anything in this act contained, the oath herein-before appointed and set forth shall be taken by the officers in his majesty's land and sea service, professing the Roman Catholic religion, at the same times and in the same manner as the oaths and declarations now required by law are directed to be taken, and not otherwise."

No other oaths necessary to be taken by Roman Catholics.

Sect. 23. "From and after the passing of this act, no oath or oaths shall be tendered to or required to be taken by his majesty's subjects professing the Roman Catholic religion, for enabling them to hold or enjoy any real or personal property, other than such as may by law be tendered to and required to be taken by his majesty's other subjects; and that the oath herein appointed and set forth, being taken and subscribed in any of the courts, or before any of the persons above-mentioned, shall be of the same force and effect, to all intents and purposes, as, and shall stand in the place of, all oaths and declarations required or prescribed by any law now in force for the relief of his majesty's Roman Catholic subjects from any disabilities, incapacities, or penalties; and the proper officer of any of the courts above-mentioned, in which any person professing the Roman Catholic religion shall demand to take and subscribe the oath herein appointed and set forth, is hereby authorized and required to administer the said oath to such person; and such officer shall make, sign, and deliver a certificate of such oath having been duly taken and subscribed, as often as the same shall be demanded of him, upon payment of 1*s.*; and such certificate shall be sufficient evidence of the person therein named having duly taken and subscribed such oath."

Titles to sees, &c., not to be assumed by Roman Catholics.

Sect. 24. "And whereas the Protestant Episcopal Church of England and Ireland, and the doctrine, discipline, and government thereof, and likewise the Protestant Presbyterian Church of Scotland, and the doctrine, discipline,

and government thereof, are, by the respective acts of union of England and Scotland, and of Great Britain and Ireland, established permanently and inviolably; and whereas the right and title of archbishops to their respective provinces, of bishops to their sees, and of deans to their deaneries, as well in England as in Ireland, have been settled and established by law; be it therefore enacted, if any person, after the commencement of this act, other than the person thereunto authorized by law, shall assume or use the name, style, or title of archbishop of any province, bishop of any bishopric, or dean of any deanery, in England or Ireland, he shall for every such offence forfeit and pay the sum of 100*l*."

Sect. 25. "If any person holding any judicial or civil office, or any mayor, provost, jurat, bailiff, or other corporate officer, shall, after the commencement of this act, resort to or be present at any place or public meeting for religious worship in England or in Ireland, other than that of the United Church of England and Ireland, or in Scotland, other than that of the Church of Scotland, as by law established, in the robe, gown, or other peculiar habit of his office, or attend with the ensign or insignia, or any part thereof, of or belonging to such his office, such person shall, being thereof convicted by due course of law, forfeit such office, and pay for every such offence the sum of 100*l*."

Sect. 26. "If any Roman Catholic ecclesiastic, or any member of any of the orders, communities, or societies hereinafter mentioned, shall, after the commencement of this act, exercise any of the rites or ceremonies of the Roman Catholic religion, or wear the habits of his order, save within the usual places of worship of the Roman Catholic religion, or in private houses, such ecclesiastic or other person shall, being thereof convicted by due course of law, forfeit for every such offence the sum of 50*l*."

Sect. 27. "Provided that nothing in this act contained shall in any manner repeal, alter, or affect any provision of an act made in the fifth year of his present majesty's reign, intituled 'An Act to repeal so much of an Act passed in the ninth year of the reign of king William the Third, as relates to Burials in suppressed Monasteries, Abbeys, or Convents in Ireland, and to make further provision with respect to the Burial in Ireland of persons dissenting from the Established Church.'"

Sect. 28. "And whereas jesuits, and members of other religious orders, communities, or societies of the church of Rome, bound by monastic or religious vows, are resident within the United Kingdom, and it is expedient to make provision for the gradual suppression and final prohibition of the same therein; it is enacted, that every jesuit, and every member of any other religious order, community, or society, of the Church of Rome, bound by monastic or religious vows, who, at the time of the commencement of this act, shall be within the United Kingdom, shall, within six calendar months after the commencement of this act, deliver to the clerk of the peace of the county or place where such person shall reside, or to his deputy, a notice or statement, in the form and containing the particulars required to be set forth in the schedule to this act annexed; which notice or statement such clerk of the peace, or his deputy, shall preserve and register amongst the records of such county or place, without any fee, and shall forthwith transmit a copy of such notice or statement to the chief secretary of the lord lieutenant, or other chief governor or governors of Ireland, if such person shall reside in Ireland, or, if in Great Britain, to one of his majesty's principal secretaries of state; and, in case any person shall offend in the premises, he shall forfeit and pay to his majesty, for every calendar month during which he shall remain in the United Kingdom, without having delivered such notice or statement as is hereinbefore required, the sum of 50*l*."

Sect. 29. "If any jesuit, or member of any such religious order, community, or society, as aforesaid, shall, after the commencement of this act, come into this realm, he shall be deemed and taken to be guilty of a misdemeanor; and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life."

Sect. 30. "Provided that, in case any natural-born subject of this realm, being at the time of the commencement of this act a jesuit, or other member

2. *Toleration of Catholics.*

10 Geo. 4, c. 7.

Judicial or other officers not to attend with insignia of office at any place of worship, other than established church.

Penalty on Roman Catholic ecclesiastics officiating, except in their usual places of worship.

Not to repeal the 5 Geo. 4, c. 25.

For the suppression of jesuits, and other religious orders of the church of Rome.

Jesuits, &c., coming into the realm to be banished.

Natural-born subjects, being

2. *Toleration of Catholics.*

10 Geo. 4, c. 7.

jesuits, may return into the kingdom, and be registered.

Principal secretaries of state may grant licences to jesuits, &c., to come into kingdom, and may revoke same.

Accounts of licences to be laid before Parliament.

Admitting persons as members of such religious orders deemed a misdemeanor.

Any person so admitted a member of a religious order to be banished.

The party offending may be banished by his majesty ;

and, if at large after three months may be transported for life.

of any such religious order, community, or society, as aforesaid, shall, at the time of the commencement of this act, be out of the realm, it shall be lawful for such person to return or to come into this realm ; and, upon such his return or coming into the realm, he is hereby required, within the space of six calendar months after his first returning or coming into the United Kingdom, to deliver such notice or statement to the clerk of the peace of the county or place where he shall reside, or his deputy, for the purpose of being so registered and transmitted, as hereinbefore directed ; and, in case any such person shall neglect or refuse so to do, he shall for such offence forfeit and pay to his majesty, for every calendar month during which he shall remain in the United Kingdom without having delivered such notice or statement, the sum of 50*l*."

Sect. 31. " Provided also, that, notwithstanding anything hereinbefore contained, it shall be lawful for any one of his majesty's principal secretaries of state, being a protestant, by a licence in writing, signed by him, to grant permission to any jesuit, or member of any such religious order, community, or society, as aforesaid, to come into the United Kingdom, and to remain therein for such period as the said secretary of state shall think proper, not exceeding in any case the space of six calendar months ; and it shall also be lawful for any of his majesty's principal secretaries of state to revoke any licence so granted before the expiration of time mentioned therein, if he shall so think fit ; and if any such person to whom such licence shall have been granted shall not depart from the United Kingdom within twenty days after the expiration of the time mentioned in such licence, or if such licence shall have been revoked, then within twenty days after notice of such revocation shall have been given to him, every person so offending shall be deemed guilty of a misdemeanor, and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life."

Sect. 32. " There shall annually be laid before both houses of Parliament an account of all such licences as shall have been granted for the purpose hereinbefore mentioned, within the twelve months then next preceding."

Sect. 33. " In case any jesuit, or member of any such religious order, community, or society, as aforesaid, shall, after the commencement of this act, within any part of the United Kingdom, admit any person to become a regular ecclesiastic, or brother or member of any such religious order, community, or society, or be aiding or consenting thereto, or shall administer or cause to be administered, or be aiding or assisting in the administering or taking, any oath, vow, or engagement, purporting or intended to bind the person taking the same to the rules, ordinances, or ceremonies of such religious order, community, or society, every person offending in the premises in England or Ireland shall be deemed guilty of a misdemeanor, and in Scotland shall be punished by fine and imprisonment."

Sect. 34. " In case any person shall, after the commencement of this act, within any part of this United Kingdom, be admitted or become a jesuit, or brother or member of any other such religious order, community, or society, as aforesaid, such person shall be deemed and taken to be guilty of a misdemeanor, and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life."

Sect. 35. " In case any person sentenced and ordered to be banished under the provisions of this act shall not depart from the United Kingdom within thirty days after the pronouncing of such sentence and order, it shall be lawful for his majesty to cause such person to be conveyed to such place out of the United Kingdom as his majesty, by the advice of his privy council, shall direct."

Sect. 36. " If any offender, who shall be so sentenced and ordered to be banished in manner aforesaid, shall, after the end of three calendar months from the time such sentence and order hath been pronounced, be at large within any part of the United Kingdom, without some lawful cause, every such offender being so at large, as aforesaid, on being thereof lawfully convicted, shall be transported to such place as shall be appointed by his majesty, for the term of his natural life."

Sect. 37. "Provided that nothing herein contained shall extend, or be construed to extend, in any manner to affect any religious order, community, or establishment, consisting of females bound by religious or monastic vows."

2. Toleration of Catholics.

Sect. 38. "All penalties imposed by this act shall and may be recovered as a debt due to his majesty, by information to be filed in the name of his majesty's attorney-general for England or for Ireland, as the case may be, in the Courts of Exchequer in England or Ireland respectively, or in the name of his majesty's advocate-general in the Court of Exchequer in Scotland."

10 Geo. 4, c. 7.

Not to extend to female societies.

Penalties, how to be recovered.

Sect. 39. "This act, or any part thereof, may be repealed, altered, or varied at any time within this present session of Parliament."

Act may be altered this session.

Sect. 40. "This act shall commence and take effect at the expiration of ten days from and after the passing thereof."

Commencement
of act.

Schedule to which this Act refers.

Date of the Registry.	Name of the Party.	Age.	Place of Birth.	Name of the Order, Community, or So- ciety, whereof he is a Member.	Name and usual Resi- dence of the next immediate Superior of the Order, Com- munity, or Society.	Usual place of Resi- dence of the Party.

III. Miscellaneous Enactments as to Papists and Popery (a).

By the 5 Eliz. c. 1, if any person shall maintain the authority of the see of Rome in this realm, he shall incur a *præmunire* (b) for the first offence, and for the second shall be guilty of high treason. Prosecution to be within a year. And the justices in sessions may inquire thereof, and shall certify the same into the King's Bench. Sects. 2, 3, 4, 10, 11.

**Maintaining au-
thority of see of
Rome.**

And by the 3 Jac. I. c. 4, s. 22, 23, 25, if any person shall put in practice to absolve or withdraw any subjects from their allegiance, or if any person shall be willingly so absolved or withdrawn, he, his aiders and maintainers, shall be guilty of high treason. The trial to be at the assizes, or in the King's Bench.

Absolving or withdrawing subjects.

None shall take any benefice of an alien, or convey money to him for the farm thereof, on pain of incurring a *præmunire*. 13 Rich. II. c. 3.

Taking a benefice
from an alien.

No alien shall purchase or occupy a benefice in England; on pain of a *præmunire*. 7 Rich. II. c. 12.

He that shall go out of the realm, to procure a benefice, shall be out of the king's protection ; and the same shall be void. 12 Rich. II. c. 15.

Going out of
realm to procure
a benefice.

If any person shall accept a benefice from the Pope, he shall be banished for ever, and his lands and goods forfeited. 13 Rich. II. st. 2, c. 2.

Accepting benefice from pope.

(a) See the various obsolete and repealed provisions in the 22nd and prior editions of this work.

(b) As to *præmunire*, see *post*,
 “*Praemunire*.”

3. *Miscellaneous Enactments as to Papists and Popery.*

Bringing bulls or other instruments from Rome.

Converting persons to popery.

Discovering them.

Double land-tax.

Recusant conforming discharged from penalties, &c.
Charitable bequests of Roman Catholics.

By the 7 Hen. IV. c. 8; 3 Hen. V. st. 2, c. 4, no provision of a benefice not vacant, made by the Pope, and licensed by the king, shall be available: but persons endeavouring to exclude the incumbent thereby shall incur a *præmunire*.

If any person shall get or publish any bull or instrument from Rome, he shall be guilty of high treason. And his aiders and comforters shall incur a *præmunire*. And concealing the same shall be misprision of high treason. 13 Eliz. c. 2. And the justices of the peace may inquire thereof, within a year and a day. 23 Eliz. c. 1, s. 8.

By the 3 Jac. I. c. 4, s. 22, 23, 25, if any person shall put in practice to reconcile any subjects to popery, or if any person shall be willingly so reconciled, he, his aiders and maintainers, shall be guilty of high treason. The trial to be at the assizes, or in the King's Bench. And see the 27 Eliz. c. 2, s. 6.

The person who shall first discover to any justice of the peace any person who shall entertain or relieve any jesuits, seminary or popish priest, within three days after the offence, so that by reason of such discovery any offender shall be taken and convicted; such person shall not only be freed from any penalty for such offence, if himself be an offender therein, but shall also have the third part of the forfeitures if they do not exceed 150*l.*, and if they do exceed 150*l.*, then he shall have 50*l.* 3 Jac. I. c. 5, s. 1.

By the yearly land-tax acts papists and reputed papists, being of 18 years of age, who shall not have taken the oaths of allegiance and supremacy, shall pay double land-tax, subject to redemption. (See *Co. Lit.* 391, a. note 346 by *Butler*.)

By the 10 Geo. III. c. 6, s. 113, estates doubly taxed, coming to Protestants, are to be discharged.

A recusant conforming shall be discharged of the penalties which he might otherwise sustain in respect of his recusancy. 1 Jac. I. c. 4, s. 2.

Stat. 2 & 3 Wil. IV. c. 115, contains provisions for the better securing the charitable donations and bequests of Roman Catholics.

Population.

THE 11 Geo. IV. & 1 Wil. IV. c. 30, was the last statutory enactment requiring a census of the population to be taken.

Posse Comitatus. See "*Warrant*," *post*; "*Riot*," *post*;
"*Hue and Cry*," Vol. III.

Postea, Proof by, see "*Evidence*," Vol. II., p. 52; *ante*, 168.
Variance in Statement of, *ante*, 163, 164.

Post-Horses.

STATUTE 2 & 3 Wil. IV. c. 120, repeals the prior acts relative to the post-horse duties; also the duties payable on stage-coaches, and consolidates the laws relative thereto. The new provisions and law on this head will be found under title "*Stage-Coaches*," *post*.

Post-Office.

- I. *General Regulations and Laws as to*, 267.
- II. *Offences relative to the Post-Office; Inspection of Letters by Government; Liability of Postmasters for Loss*, 270.
- III. *Postage of Letters and Packets*, 277.
- IV. *Postage relating to Soldiers or Seamen*, 281.
- V. *Exemption from Postage and Franking by Members of Parliament, &c.*, 283.
- VI. *Forms*, 285.

I. General Regulations and Laws as to.

By the 9 Anne, c. 10, s. 12, and 5 Geo. III. c. 25, s. 9, 10, persons appointed from time to time to measure the post roads shall be sworn to perform the same according to the best of their skill and judgment, before a justice of the peace, who shall make a certificate thereof in writing, to be entered in the general post-office, without fee.

9 Anne, c. 10.

Measurer's oath.

By 9 Anne, c. 10, s. 41, no person shall be capable of exercising any employment relating to the post-office, or any branch thereof, or be any way concerned in receiving, sorting, or delivering of letters, before he shall have taken the following oath, before a justice of the peace where he resides:

Oath of person employed by post-office.

"I, A. B., do swear, that I will not wittingly, willingly, or knowingly open, detain, or delay, or cause, procure, permit, or suffer to be opened, detained, or delayed, any letter or letters, packet or packets, which shall come into my hands, power, or custody, by reason of my employment in or relating to the post-office; except by the consent of the person or persons to whom the same is or shall be directed, or by an express warrant in writing under the hand of one of the principal secretaries of state for that purpose; or except in such cases where the party or parties to whom such letter or letters, packet or packets, shall be directed, or who is or are chargeable with the payment of the port or ports * thereof, * Sic. shall refuse or neglect to pay the same, and except such letters or packets as shall be returned for want of true directions, or when the party or parties to whom the same is or shall be directed cannot be found: and that I will not in any way embezzle any such letter or letters, packet or packets as aforesaid."

But stat. 5 & 6 Wil. IV. c. 62, ante, "Oaths," Vol. III., substitutes a declaration in lieu of this oath.

Declarations substituted for this oath.

By 9 Anne c. 10, s. 40, no person shall wittingly, willingly, or knowingly open, detain, or delay, or cause, procure, or suffer any letter or packet, after delivery into the post-office, or into the hands of any person employed for the receiving or carrying post letters, and before delivery to the persons to whom directed, or for their use; except by express warrant in writing under the hand of one of the principal secretaries of state; or except where the party to whom directed, or who is chargeable with the payment of the port *, shall refuse to pay the same: and every person so offending, or who shall embezzle any such letter or packet, shall forfeit 20*l.*, to be recovered by action, &c., at Westminster, together with costs; and, besides such penalty, such offender shall be incapable of having, using, exercising, or enjoying any office, trust, or employment, in or relating to the post-office, or any branch thereof.

No letter to be opened or delayed.

Exception.

* Sic.

In the case of *Martin v. Ford*, 5 T. R. 101, it was determined that the penalty of 20*l.* inflicted by the 9 Anne, c. 10, s. 40, on persons who willingly or knowingly open, detain, or delay any letter after the same hath been delivered into the post-office, or into the hands of any person employed for the receiving or carrying post letters, extends only to persons in the employment of the post-office, and not to a person nominated jointly by the inhabitants of a village near a post town, and the postmaster of that town to receive and deliver the letters to those inhabitants.

Letters having arrived at a post-office addressed to a party who had become bankrupt, the assignee (in that character) demanded them of the postmaster, and he believing, *bonâ fide*, that the assignee was entitled to have them for

1. *General
Laws as to.*

the purposes of the commission, delivered them up, this having been the practice of the office under similar circumstances for more than thirty years: Held that the postmaster was not liable under the act 9 Anne, c. 10, s. 40, for *wittingly, willingly, and knowingly* detaining letters, and causing them to be detained and opened. (*Meirelles v. Banning*, 2 B. & Adol. 909.)

By sect. 19, penalties under this act to be sued for in any court of record; one moiety to the king, the other to the informer, with full costs.

Recovery of
Penalties.

Letters to and
from places not
being post towns.

41 Geo. 3, c. 7.

By the 41 Geo. III. (U. K.) c. 7, s. 5, the postmaster-general may undertake at the expense of the post-office the conveyance and delivery of letters directed to persons abiding in towns and places (not being post towns) from the respective post towns to which such letters shall be carried by the post in the usual manner, and also the collection of letters in and from such towns, villages, and places to be sent by the post, and may take such sums of money for such extra service as may be agreed upon between him and the inhabitants of such place.

Sect. 6. Nothing herein shall prevent the inhabitants of any such towns and places from carrying or re-carrying, or employing servants or other persons to carry, letters to or from the post town in like manner as they have been heretofore accustomed and are by law authorized to do.

46 Geo. 3, c. 92.

And by the 46 Geo. III. c. 92, s. 2, the postmaster-general is authorized to do the same where the towns from whence the letters are to be conveyed are not post towns; and sect. 3 contains the same proviso as sect. 5 of 41 Geo. III. c. 7.

9 Anne, c. 10.

Conveying letters
otherwise than by
post.

By the 9 Anne, c. 10, s. 17, no person shall receive, take up, order, despatch, convey, carry, re-carry, or deliver any letter or packet of letters, or make any collection of letters, or set up or employ any conveyance whatsoever for such receiving, &c. &c., or by means whereof any letter or packet of letters shall be received &c. &c., on pain of 5*l.* for every several offence, and also 100*l.* per week. [This enactment is still in force, see the 2 Wil. IV. c. 15, s. 18, *post*, 269.]

Sect. 32 saves the privileges of the two universities.

42 Geo. 3, c. 81.

Sending letters
otherwise than by
post.

And by the 42 Geo. III. c. 81, s. 5, no person shall send or tender, or deliver to be sent otherwise than by the post, or by the authority of the postmaster-general, or his deputy or deputies, or to the nearest and most convenient post town, to be from thence forwarded by the post, any letter, or packet of letters, on pain of 5*l.* for every offence, with full costs to the informer, in any court of record at Westminster; one moiety thereof to the king, the other moiety to the informer. [This enactment is still in force, see the 2 Wil. IV. c. 15, s. 18, *post*, 269; see the 5 Geo. IV. c. 20, s. 7, *infra*.]

Exceptions.

Sect. 6. "Nothing herein shall extend to any letter concerning goods sent by any common carrier, and to be delivered with such goods without profit or advantage for receiving or delivering the same; nor any letter of merchants, owners of ships, or merchant vessels, nor any the cargo therein sent on board such vessels to be delivered by the masters thereof, or by any other employed by them for the carriage thereof without hire or reward for the same; nor any commission or return thereof; affidavits, writs, process, or proceedings, or return thereof, out of any court; nor any letter sent by any private friend in their way of journey, or by any messenger sent on purpose, concerning the private affairs of any person." [See the 5 Geo. IV. c. 20, s. 8, *post*, 269.]

A letter sent in a parcel from one stamp distributor to another, containing amongst other things stamps, is to be presumed to relate to them so as to bring it within the exception respecting letters accompanying goods in the 42 Geo. III. c. 81, s. 6; at least a carrier seeking to evade his liability to answer for the loss of it under the pretence of its having been an illegal act, must give some *prima facie* evidence to the contrary to lay the foundation of his objection. (*Bennett v. Clough*, 1 B. & Ald. 461.)

5 Geo. 4, c. 20.

Letters not to be
conveyed in any
other way than
by post.

By statute 5 Geo. IV. c. 20, s. 7, reciting, that notwithstanding the provisions in that behalf made by the 9 Anne, c. 10, and 42 Geo. III. c. 81, "the practice of sending and conveying by stage coaches, carts, waggons, ships, vessels, boats, barges, and other conveyances, letters and packets

which, by virtue of the laws relating to the post-office, ought to be sent by the post, prevails to a considerable extent, to the great prejudice and diminution of his majesty's revenue ;" it is enacted, " That from and after the passing of this act, [12th April, 1824,] no person or persons whatsoever, or body politic or corporate, in any part of the United Kingdom of Great Britain or Ireland, or other his majesty's dominions, where any post is or shall be established under the management of his majesty's postmaster-general, shall receive, take up, order, despatch, convey, carry, re-carry, or deliver, or shall send, or cause to be sent or conveyed, or tender or deliver in order to be sent or conveyed, otherwise than by the post, or by and with the authority and consent of his majesty's postmaster-general for the time being, or the deputy or deputies of such postmaster-general, or to the nearest or most convenient post town, to be from thence forwarded by the post, any letter or letters, on pain of forfeiting for each and every letter or letters, whether such letter shall be received, taken up, ordered, despatched, conveyed, carried, re-carried, or delivered, or sent, or caused to be sent or conveyed, or tendered, or delivered, in order to be sent or conveyed, separately or by itself, or together with any other letter or letters, or other matter or thing whatsoever, the sum of 5*l.*, one moiety whereof to the use of his majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered, with full costs of suit, by any person who shall and will inform and sue for the same, in any of his majesty's courts of record at Westminster, for offences committed within that part of the United Kingdom of Great Britain and Ireland called England, and in any of his majesty's courts of record in Dublin for offences committed in Ireland, and before the sheriff or steward court of the shire or stewartry within which the party offending shall reside, or the offence shall be committed, for offences committed in Scotland."

1. *General Laws as to.*

5 Geo. 4, c. 20.

Penalty on each letter.

Sect. 8. " This act shall not extend to subject any person or body corporate to any such penalty or forfeiture as aforesaid, for receiving, taking up, ordering, despatching, conveying, carrying, re-carrying, or delivering or sending, or causing to be sent or conveyed, or for tendering or delivering, or sending or causing to be sent or conveyed, or for tendering or delivering in order to be sent or conveyed, any letter or letters which shall respectively concern goods sent by any common known carrier of goods, and shall be sent with and for the purpose of being delivered with the goods that such letter or letters do concern, without hire or reward, profit or advantage, for the receiving or delivering the same; nor any letter or letters of merchants, owners of any ships, barques, or vessels of merchandize, or any the cargo or lading therein, sent on board the same ships, barques, or vessels of merchandize, to be delivered by the masters of the same ships, barques, or vessels of merchandize, or by any other person employed by them for the carriage of such letters, according to their respective direction, without paying or receiving any hire or reward, advantage or profit for the same in anywise; nor any commission or return thereof, affidavits, writs, process, or proceedings, or return thereof, issuing out of any court; nor any letter sent by any private friend in his or her way of journey or travel, so as such letter shall be delivered by such friend to the party to whom such letter shall be directed; nor any letter or letters to be sent by any messenger on purpose for or concerning the private affairs of any person."

Exemptions.

By the 2 Wil. IV. c. 15, s. 18, in actions, &c., brought for illegally sending or conveying letters otherwise than by the post, contrary to these acts of 9 Anne, 42 Geo. III., 5 Geo. IV., and others, the proof is to lie on the defendant.

Sect. 10, enables the postmaster-general to contract for the conveyance of mails by British ships, and forward the same at the packet rates of postage.

Sect. 12. imposes a penalty of 5*l.* on persons carrying or forwarding letters by any such ships otherwise than through the post-office.

1. *General
Laws as to.*

Sect. 13, the enactments are not to extend to letters sent relating to goods on board such ship.

Sect. 14, empowers the custom-house officers to search for letters.

Sect. 15. The penalties are to be received from the person writing, sending, or conveying such letters.

Sect. 16. One moiety of the penalties is to be payable to the use of his majesty, and the other moiety to the informer who shall sue for the same.

Postmaster not to meddle in elections.

By the 9 Anne, c. 10, s. 44, no postmaster shall, by word, message, or writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving his vote for the choice of any person to serve in parliament, on pain of 100*l.*; half to the informer, and half to the poor; and likewise of being incapacitated.

Inspection of letters by government.

It should be observed, that notwithstanding the above enactments against detaining or opening letters, the correspondence of the kingdom is still liable to the inspection of government; for, by a warrant from one of the principal secretaries of state, letters may be detained and opened. One of the reasons assigned in the ordinance made in 1657, for the establishment of the general post-office, is, "that it will be the best means to discover and prevent many dangerous and wicked designs against the commonwealth." (1 *Bla. Com.* 322, *note.*) (a)

Liability of postmaster for loss, &c., of letters.

It was determined so long ago as 13 Wil. III. in the case of *Lane v. Cotton*, by three judges of the Court of King's Bench, though contrary to Lord C. J. Holt's opinion, that no action could be maintained against the postmaster-general for the loss of bills or articles sent in letters by the post. (*Lane v. Cotton*, 1 *Ld. Raym.* 646; 1 *Cowp. Rep.* 100.) A similar action was brought against Lord Le Despenser and Mr. Carteret, postmaster-general in 1778, to recover a bank note of 100*l.*, which had been sent by the post and was lost. Lord Mansfield delivered the opinion of the court, that there was no resemblance or analogy between the postmasters and a common carrier, and that no action for any loss in the post-office could be brought against any person except him by whose actual negligence the loss accrued. (*Whitfield v. Lord Le Despenser*, *Cowp.* 754, 765.)

For this reason it is recommended by the secretary of the post-office to cut bank notes and to send one half at a time. This is the only safe method of sending bank notes, as the Bank would never pay the holder of that half which had been fraudulently obtained.

II. Offences relative to the Post-Office. Inspection of Letters by Government. Liability of Postmaster for Loss of Letters, &c.

Postboy loitering upon the road.

By the 5 Geo. III. c. 25, s. 20, if any postboy shall quit the mail before his arrival at the next stage; or shall suffer any other person (except the person employed to guard the mail) to ride on the horse or carriage; or shall loiter on the road so as to retard the arrival of the mail; or shall not in all possible cases convey the mail after the rate of six miles an hour at the least: he shall, on conviction by confession, or oath of one witness before one justice, be sent to the house of correction, to be there kept to hard labour, not exceeding one month, nor less than fourteen days.

Unlawfully collecting letters.

And, by sect. 21, if any postboy shall by himself or in combination with others unlawfully collect any letters, or convey or cause them to be unlawfully conveyed, he shall, on conviction by confession on oath of one witness before one justice, forfeit for every letter or packet so collected, conveyed or delivered,

(a) And see stat. 24 Geo. III., stat. 2, c. 37, s. 4, 5, as to opening foreign letters suspected to contain prohibited goods, *post*, 279, and statutes 35 Geo. III. c. 62, and 17 Geo. III. st. 2, c. 53, enabling the postmaster-general to open and return letters to foreign parts in consequence of certain political emergencies.

10s. to the informer: if not forthwith paid on conviction, to be committed to the house of correction to hard labour, not exceeding two months nor less than one.

Sect. 19. If any person appointed, authorized, and intrusted to take in letters or packets and receive the postage thereof, shall embezzle or apply to his own use any money received by him with such letters, &c. for the postage thereof; or shall burn or otherwise destroy any letter or packet by him so taken in or received; or who, by virtue of his office, shall advance the rates upon letters or packets sent by the post, and not duly account for the money received by him for such advanced postage; he shall be deemed guilty of felony.

Embezzling money for letters post paid, or destroying the letters.

Advancing rate of postage.

And by the 7 Geo. III. c. 50, s. 3, if any person employed in any business of the post-office, who shall take any letter or packet to be forwarded by the post, and receive any money therewith for the postage, shall burn or destroy any such letter or packet; or shall advance the rate of postage upon any letter or packet sent by the post, and not duly account for the money by him received for such advanced postage; he shall be deemed guilty of felony.

7 Geo. 3, c. 50.

By s. 2. "If any person or persons shall rob any mail or mails, in which letters are sent or conveyed by the post, of any letter or letters, packet or packets, bag or mail of letters, or shall steal and take from or out of any such mail or mails, or from or out of any bag or bags of letters sent or conveyed by the post, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets sent or to be sent by the post, any letter or letters, packet or packets, although such robbery, stealing, or taking shall not appear to be proved to be a taking from the person, or upon the king's highway, or to be a robbery committed in any dwelling-house, or any coach-office, stable, barn, or any outhouse belonging to a dwelling-house, and although it should not appear that any person or persons were put in fear by such robbery, stealing, or taking, yet such offender or offenders, being thereof convicted, as aforesaid, shall be deemed guilty of felony, without benefit of clergy." [See as to the punishment, 5 & 6 Wil. IV. c. 81, *post*, 272.]

Robbing the mail, or stealing letters.

By the 42 Geo. III. c. 81, s. 4, if any person shall wilfully secrete, keep, or detain, or being required to deliver up by any deputy, clerk, agent, letter-carrier, post-boy, rider, driver, or guard, of any mail coach, or any other officer or person whatsoever, employed in any business relating to the post-office, shall refuse or wilfully neglect to deliver up any mail or bag of letters sent or conveyed, or made up in order to be sent or conveyed by the post, or any letter or packet sent by the post, or put for that purpose into any post-office, or house or place for the receipt or delivery of letters, &c., and which letter or packet, bag or mail of letters, shall have been found or picked up by the same or any other person, or shall, by or through accident or mistake, have been left with or at the house of the same or any other person; each and every person so offending shall be deemed guilty of a misdemeanor, to be punished by fine and imprisonment.

42 Geo. 3, c. 81.

Persons secreting &c. letters, which shall be found or picked up, &c., guilty of a misdemeanor.

By the 52 Geo. III. c. 143, s. 2, if any deputy, clerk, agent, letter-carrier, post-boy, or rider, or any other officer or person whatsoever employed by or under the post-office of Great Britain in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the said office, shall, after the passing of this act, secrete, embezzle, or destroy any letter or packet, or bag or mail of letters, with which he or she shall have been entrusted in consequence of such employment, or which shall in any other manner have come to his or her hands or possession, whilst so employed, containing the whole or any part or parts of any bank note, bank post bill, bill of exchange, exchequer bill, South Sea or East India bond, dividend warrant, either of the Bank, South Sea, East India, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state-lottery ticket or certificate, bank receipt for payment on any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, American provincial bill of credit, goldsmith's or banker's letter of credit, or note for or relating to the payment of money, or other bond or warrant,

52 Geo. 3, c. 143.

Offences of persons employed by the post-office, how to be punished.

2. *Offences, &c.
relative to.*

52 Geo. 3, c. 143.

Offences of other
persons against
the post-office,
how to be pun-
ished.

Trial.

Offences of per-
sons assisting
others employed
by post-office,
how to be pun-
ished.

5 & 6 Wil. 4, c. 81.

Punishment of
death abolished.

c. 81 explained by
the 6 Wil. 4, c. 4.

5 Geo. 4, c. 20.

Embezzling votes,
parliamentary

draught, bill, or promissory note whatsoever, for the payment of money; or shall steal and take out of any letter or packet with which he or she shall have been so entrusted, or which shall have so come to his or her hands or possession, the whole or any part or parts of any such bank note, bank post bill, bill of exchange, exchequer bill, South Sea or East India bond, dividend warrant, either of the Bank, South Sea, East India, or any other company, society, or corporation, navy, or victualling, or transport bill, ordnance debenture, seaman's ticket, state-lottery ticket or certificate, bank receipt for payment of any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, American provincial bill of credit, goldsmith's or banker's letter of credit, or note for or relating to the payment of money, or other bond or warrant, draught, bill, or promissory note whatsoever, for the payment of money; every person so offending, being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy.

By sect. 3, if any person shall, after the passing of this act, steal and take from any carriage, or from the possession of any person employed to convey letters sent by the post of Great Britain, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets, or bags or mails of letters sent or to be sent by such post, any letter or packet, or bag or mail of letters sent or to be sent by such post, or shall steal and take any letter or packet out of any such bag or mail, every person so offending, and being thereby convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy; and such offences shall and may be inquired of, tried, and determined, either in the county where the offence shall be committed, or where the party shall or may be apprehended. [And see the 2 Wil. IV. c. 15, s. 11, as to Irish letters, &c.]

Sect. 4. "If any person shall, after the passing of this act, counsel, command, hire, persuade, procure, aid, or abet, any such deputy, clerk, agent, letter-carrier, post-boy, or rider, or any officer or person whatsoever employed by or under the said office, in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the said office, to commit any of the offences hereinbefore mentioned, or shall, with a fraudulent intention, buy or receive the whole or any part or parts of any such security or instrument, as hereinbefore described, which shall have been contained in, and which, at the time of buying or receiving thereof, he or she shall know to have been contained in any such letter or packet so secreted, embezzled, stolen or taken by any deputy, clerk, agent, letter-carrier, post-boy, or rider, or any other officer or person so employed, as aforesaid, or which such person so buying or receiving, as aforesaid, shall, at the time of buying or receiving thereof, know to have been contained in and stolen and taken out of any letter or packet, stolen and taken from or out of any mail or bag of letters sent and conveyed by such post, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets, or bags or mails of letters, sent or to be sent by such post, every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy, and shall and may be tried, convicted, and attainted of such felony, as well before as after the trial or conviction of the principal felon, and whether the said principal felon shall have been apprehended or shall be amenable to justice or not."

By the 5 & 6 Wil. IV. c. 81, so much of the 52 Geo. III. c. 143, as inflicts the punishment of death, is abolished, and the offender is now by the 5 & 6 Wil. IV. c. 81, explained by the 6 Wil. IV. c. 4, liable to be transported beyond the seas for life, or for not less than seven years, or to be imprisoned with or without hard labour in the common gaol or house of correction for any term not exceeding three years, and for any period of solitary confinement during such imprisonment, at the discretion of the court or judge. See these enactments, *post*, "*Sacrilege*," p. 382.

The 5 Geo. IV. c. 20, s. 10, reciting, "that serious loss, inconvenience, and injury, may be sustained by the wilful embezzling or purloining of

printed votes or proceedings in parliament, and printed newspapers, sent or to be sent by the post, within the United Kingdom," enacts, "that from and after the passing of this act [12th April, 1824], if any deputy, clerk, agent, letter-carrier, letter-sorter, post-boy, or rider, or any other officer or person whatsoever, employed, or hereafter to be employed, in receiving, stamping, sorting, charging, conveying, or delivering letters or packets, or in any other business relating to the post-office in the said United Kingdom, shall wilfully purloin, embezzle, secrete, or destroy, or shall wilfully permit or suffer any other person or persons to purloin, embezzle, secrete, or destroy, any printed votes or proceedings in parliament, or printed newspapers, or any other printed paper whatsoever, sent or to be sent by the post without covers, or in covers open at the sides, each and every such person or persons so offending shall be deemed and taken to be guilty of a misdemeanor, and be punished by fine and imprisonment; and such offences shall and may be inquired of, tried, and determined, either in the county where the offence shall be committed, or where the party shall or may be apprehended."

2. *Offences, &c. relative to.*

proceedings, or newspapers, &c. misdemeanor.

By the 2 Wil. IV. c. 15, s. 10, his majesty's postmaster-general for the time being, and his deputy and deputies by him thereunto sufficiently authorized, may contract and agree for the conveyance of mails of letters by any British ships or vessels to or from any port or place whatsoever, and to forward the same accordingly, and to demand and take, for the use of his majesty, his heirs and successors, for such conveyance, the like rates of postage, and to exercise and enforce the like powers for compelling payment of the same, as if such letters and packets had been conveyed by regular packet boats.

Postmaster general may contract for conveyance of mails by British ships, and forward the same at packet rates of postage.

Sect. 11. "Every person who shall steal or unlawfully take away any bag or mail of letters sent or to be sent by any ship or vessel so to be employed for the conveyance of mails of letters and packets as last aforesaid, or shall steal or unlawfully take any letter or packet out of any such bag or mail, or shall unlawfully open any such bag or mail, shall, upon being convicted thereof, be adjudged guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years; and when any such felony shall be committed within the jurisdiction of the Admiralty of England, the same shall be dealt with, inquired of, tried, and determined in the same manner as any other felony committed within that jurisdiction."

Stealing bags or mails of letters, or stealing letters out of such bags or mails, felony.

Shaw was indicted on the 7 Geo. III. c. 50, s. 1, being a clause nearly similar to the 52 Geo. III. c. 143, s. 1. There were four counts in the indictment: 1st. That, being a clerk employed in sorting and charging letters in the post-office, the prisoner feloniously secreted, embezzled, and destroyed a letter containing a bank note for 20*l*. 2dly. That, being a person employed in the business relating to the general post-office, he secreted, &c. 3dly. That, being a clerk employed in sorting and charging letters in the post-office, he feloniously stole and took out of a letter a bank note for 20*l*. 4thly. That, being a person employed in the business relating to the general post-office, he feloniously stole, &c. It appeared in evidence that the prisoner was only a sorter, and not a charger of letters; whereupon the recorder, who tried him, directed the jury (the proof of the fact being very plain) to convict him, which they did, on the second and fourth counts only. It was then moved in arrest of judgment that, as he had been acquitted on the counts which charged him as a sorter and charger, and did not appear to be a person employed by the post-office in any other business but that of sorting, which is one of the employments particularly specified in the 7 Geo. III., which says, that "if any person employed in receiving, sorting, charging, &c., or in any other business relating to the post-office, shall, &c.," he could not be convicted on the third and fourth counts. This, being adjourned to Serjeants' Inn, was argued before eleven of the judges (*abs. Blackstone, J.*) who unanimously agreed that judgment should be

Employed in sorting, &c.

2. *Offences, &c.*
relative to.

arrested, but inclined to think, that the jury might have convicted the prisoner on the first and third counts, by a special finding that he was a sorter only. (*Shaw's case*, O. B. May, 1771; *Blac. Rep.* 789; 2 *East's P. C.* 580.)

In *Browne's case*, the prisoner was employed in the post-office to deliver letters, but not to sort them; but he did sort them, when regularly he ought not to have done so, and whilst sorting, stole a letter. The indictment charged him, as a sorter, with secreting, and, as a common person (under sect. 3 of the 52 Geo. III.), with stealing: but as it appeared that he ought not to have been allowed to sort, he was acquitted of secreting; and it was then urged he could not have been convicted under the third section, because he was a person employed in the post-office, and the case of *R. v. Pooley*, *infra*, was cited. A case being reserved, the judges stated, that the report of *R. v. Pooley* was to the point in question mistaken: that *R. v. Simpson*, *cor. Lord Ellenborough*, *Thompson*, B., and *Lawrence*, J., O. B. 1810, was in point the other way; that a man who stole was not less a person stealing, because he had some employment in the office; and that, upon a contrary construction, if a person in the office stole, but not in the course of his employment, he would be unpunishable. (*R. v. Brown*, 2 *Russ. C. & M.* 238; and *R. & M.*, C. C. 32, *n. a.*)

Previously to the last case it had been holden, that a letter-carrier taking letters out of the post-office, intending to deliver them to the owners, but to *embezzle* the postage, is not indictable for stealing such letters, under the second section of the 7 Geo. III. c. 50. (*Howatt's case*, *post*, 275.)

The 7 Geo. III. c. 50, s. 2. *ante*, 271, relative to robbing the mail and stealing a letter, was held not to extend to the servants of the post-office; and, therefore, a conviction of one of them for stealing out of the post-office a letter sent to be delivered by the post, was holden to be wrong. The opinion of the judges in this case was founded on a comparison of the second section of the act with the first and third sections, which were expressly intended to guard against the misconduct of the servants of the post-office. (*Pooley's case*, O. B. 1801; 1 *East's P. C. Add.* xvii.; *R. & R.* 12, S. C.) But the report of such decision has been mentioned as incorrect. And it is clear that a person may be indicted and convicted under the third section of the 52 Geo. III. c. 143, *ante*, 273, for stealing a letter, though such person has an employment in the post-office, especially if such letter did not come to him in the course of his employment. (2 *Russ. C. & M.* 239.)

Containing any
bank note, &c.

Benjamin Willoughby was indicted on the 7 Geo. III. c. 50, for that he, being a clerk employed in the post-office at Birmingham, in stamping and charging letters, stole and took out of a letter there, a certain warrant for the payment of money, (setting it forth, by which it appeared to be a Birmingham post-bill, or bill of exchange payable in London). The fact of stealing having been proved, it was objected that this was not "a warrant for the payment of money" within the meaning of the act, but a post-bill, or bill of exchange. The prisoner was found guilty, but judgment was respited to take the opinion of the judges. Though at first there was a difference of opinion among the judges, at length they all agreed that it was properly stated in the indictment; for, though it was a bill of exchange, it was also a warrant for the payment of money; it was a voucher to the bankers or drawers, if genuine, for the payment, and it might also have been laid to be a draft. And they said it could not be distinguished from the case of *R. v. Shepherd*, *Mich.* 1781, where in forgery the indictment was in the same form, and holden good. (*Willoughby's case*, *Warwick Lent Ass.* 1783; 2 *East's P. C.* 581.)

Money in a letter.

Stealing *money* out of letters is not within these acts. Timothy Skutt, who was a sorter of letters, &c., stole two letters, each containing 5s. 3d. in gold coin; and, being indicted on these statutes, and the fact being proved, it was objected that, as the letters contained money, and not any security relating to the payment of money mentioned in the acts, the case did not fall within them; and the court being of that opinion, he was acquitted on

that indictment, but was again indicted and convicted of grand larceny for stealing the money, and was transported. (*Skutt's case*, O. B. 1774; 2 *East's P. C.* 581.)

In *Moore's case*, 2 *East's P. C.* 581, it was holden, upon a conference by all the judges (except *Buller*, J., who was absent, and doubted), that a letter-carrier secreting half a bank note in one letter on one day, and the other half in another letter on another day, is a secreting within the 7 Geo. III. c. 50; and see now the 52 Geo. III. c. 143, s. 2, *ante*, 271; also the 42 Geo. III. c. 81; *R. v. Ellins*, R. & R., C. C. 188.

A bill of exchange may be laid as a warrant for the payment of money, within the statute. (*Willoughby's case*, 2 *E. P. C.* 581.)

Where a person employed in the post-office secreted a letter, containing a draft not duly stamped, it was held not to be an offence within the act, the draft not being available. (*R. v. Pooley*, R. & R. 12; 3 B. & P. 311, S. C.) But secreting a letter containing country bank notes, paid in London, and not re-issued, is an offence within the statute; for they are available against the makers of them, into whomsoever's hands they come. (*R. v. Ranson*, R. & R. 232.)

The note or other security stolen in the letter may be described generally in the indictment. (2 *E. P. C.* 583.)

A stamper of the post-office, who purloins a letter for the purpose of delivering it as a missorted letter, with a view of obtaining the postage of it, cannot be capitally convicted of secreting a letter containing bills, under the 52 Geo. III. c. 143, s. 2, although the letter may, in fact, contain bills. (*R. v. Sharpe*, cor. 12 Judges, 1825; *Car. C. L.* 147; *R. & M.*, C. C. R. 125, S. C. See also the case of *R. v. Ellins*, R. & R., C. C. 188.)

The horse mail-bags being left by the mail-rider, after he had taken possession of them, for a temporary purpose, for two minutes, were stolen during his absence: the case is within the 52 Geo. III. c. 143, s. 3. (*R. v. Robinson*, 2 *Stark. N. P.* 485.)

Noah Pearce, intending to steal the mail-bags, went one night about the usual time to the post-office at High Wycombe, and pretending to be the mail-guard, obtained from the person at the office the bags of letters, which were let down to him from out of the window of the post-office by a string, from whence he took them, and immediately went away. Being indicted on the 7 Geo. III. c. 50, s. 2, and found guilty, all the judges were of opinion, in Hilary Term following, that the conviction was proper, on a count in the indictment for stealing the letters out of the post-office. His artifice in obtaining the delivery of them in the bag out of the house was the same as if he had actually taken them out himself. (*Noah Pearce's case*, *Buckingham Sum. Ass.* 1794, 2 *East's P. C.* 603.) In this case the property did not pass; as the postmaster had no property in the mail-bags to part with.

A letter-carrier, taking letters out of the office, intending to deliver them to the owners, but to embezzle the postage, cannot be indicted for stealing such letters, under the 7 Geo. III. c. 58, s. 2. James Howatt was indicted on the second section of this act: 1st, for stealing out of the London bags, sent by the general post-office from London to Manchester, divers letters specified; 2ndly, 3rdly, and 4thly, for stealing the like letters out of the post-office in Manchester, and out of a certain house for the receipt and delivery of letters sent by the post, and out of a certain place for the same. It appeared to be the duty of the clerks in the office to count the letters and deliver them out to the letter-carriers, of whom the prisoner was one. He contrived to obtain possession of some of the letters before they were so counted out to him, and was detected with them in his pocket in the letter-carrier's room, which is under the same roof as the office, separated from it only by some steps. For some time previous there had been a great deficiency in the receipt of the postage, though there was no complaint of the miscarriage of any letters; and from circumstances it appeared, and so the jury found when they convicted the prisoner, that he intended to have delivered the letters, and only to have embezzled the postage. But in the Michaelmas Term following, all the judges (*abs. Hotham*, B.) agreed that

2. *Offences, &c. relative to.* this was not a stealing within the act. (*Howatt's case, Lancaster Sum. Ass. 1795, cor. Rooke, J., 2 East's P. C. 604; and see ante, 274*)

Trial, where.

On an indictment for robbing the mail, the robbery must have formerly been proved to have been committed in the county laid in the indictment. (*R. v. Thomas, 2 East's P. C. 605.*) But now this difficulty is removed by the 7 Geo. IV. c. 64, s. 12; and see "*Indictment*," Vol. III.

To prevent obstructions opposite general post-offices in London and Dublin.

By the 2 Wil. IV. c. 15, s. 37, reciting "and whereas it is expedient to prevent obstructions opposite the general post-offices in London and Dublin;" it is enacted, "that no hackney carriage of any description whatever shall at any time hereafter stand or ply for hire in front or opposite the general post-office in St. Martin's-le-Grand, or the general post-office in Sackville-street, Dublin, or either of them, or any part thereof, respectively; and also that no hawker, newsvender, or other person or persons whatsoever, shall at any time hereafter unnecessarily stop or loiter on the flagway or pavement in front of the said post-offices or either of them, or any part thereof respectively, any law to the contrary in anywise notwithstanding; and in case the driver or any person or persons having the management of any hackney carriage shall permit the same to stand or ply for hire in front of or opposite the general post-office in St. Martin's-le-Grand, London, or the general post-office in Sackville-street, Dublin, or either of them, or any part thereof, or in case any hawker, newsvender, or other idle or disorderly person shall unnecessarily or purposely stop or loiter on the flagway or pavement in front of the said general post-offices or either of them, or any part thereof, the person or persons so offending shall for every such offence, on conviction thereof in a summary way before a justice of the peace, forfeit and pay to the informer any sum not exceeding five pounds, with costs, and if not paid, either immediately after the conviction or within such period as the justice shall at the time of the conviction appoint, it shall be lawful for the convicting justice to commit the offender to the common gaol or house of correction, there to be imprisoned for any time not exceeding two calendar months, the commitment to be determinable on payment of the amount and costs."

Manner of proceeding against persons for such obstructions.

Sect. 38. "And for the more effectual prosecution of the said last-mentioned offence, be it enacted, that where any person shall be charged, on the oath of a credible witness, before any justice of the peace, with any such offence, the justice may summon the person charged to appear at a time and place to be named in such summons, and if he or she shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him or her personally, or by leaving the same at his or her usual place of abode,) the justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him or her before himself or some other justice of the peace, or the justice before whom the charge shall be made may, (if he shall so think fit,) without any previous summons, issue such warrant, and the justice before whom the person charged shall appear or be brought shall proceed to hear and determine the case."

What shall be deemed hackney carriages for the purposes hereof.

Sect. 39. "Every carriage with two or more wheels, which shall stand or ply for hire in front of or opposite the general post-office in St. Martin's-le-Grand, London, or the general post-office in Sackville-street, Dublin, or either of them, or any part thereof, of whatever may be the form or construction of such carriage, or the number of persons which the same shall be calculated to convey, or the number of horses by which the same shall be drawn, shall be deemed and taken to be a hackney carriage within the meaning of this act; and in all proceedings at law or otherwise, and upon all occasions whatsoever, it shall be sufficient to describe any such carriage as aforesaid by the term hackney carriage, without further or otherwise describing the same."

III. Postage of Letters and Packets.

By 9 Anne, c. 10, s. 30, all sums not exceeding 5*l*. due from any person for letters delivered, shall be recovered before justices of the peace as small tithes are. Such debt to be preferable to any debt to a private person. Postage, how recoverable.

And by the 5 & 6 Wil. IV. c. 25, s. 28, "so often as any sum or sums of money, not exceeding twenty pounds, shall be due from any person or persons in Great Britain or Ireland (whether under this act, or under any other act or acts relating to the post-office), for the postage of any letter or packet, letters or packets, to him, her, or them delivered by any deputy, agent, or letter carrier under his majesty's postmaster-general, or which shall be due from any deputy, agent, or letter carrier in Great Britain or Ireland for the port of any letters or packets to him, her, or them entrusted for delivery under the authority of the said postmaster-general, or from any other person or persons employed or to be employed in receiving or collecting the postage of letters or packets, or any of the post-office revenue, it shall be lawful for any constable, tithingman, or other peace officer of the county, riding, division, city, town, or place where such person or persons shall reside, first obtaining a warrant for that purpose under the hand and seal or hands and seals of any one or more of his majesty's justices acting in and for such county, riding, division, city, town, or place (which justice or justices on complaint made to him or them shall summon the party complained of, and the witnesses on either side, and examine into the matter of fact, and shall grant such warrant, on due proof being made of the sum or sums due and owing from such person or persons as aforesaid by the voluntary confession of the party or by the oath of one or more witness or witnesses), to distrain such person or persons by his, her, or their goods and chattels for the amount of such debt, and the distress so to be taken to detain and keep for the space of five days at the costs and charges of such person or persons; and if he, she, or they shall not within the time pay the amount of such debt, with the costs and charges of taking and keeping such distress, then the goods and chattels so distrained shall be sold by such constable, tithingman, or other peace officer, who shall render the overplus (if any) of the money arising by the sale thereof, after deducting and retaining the amount of such debt and the costs and charges of taking, keeping, and selling such distress, to the person or persons so to be distrained as aforesaid; and for the purpose of taking such distress it shall be lawful for such constable, tithingman, or other peace officer, when any refusal or resistance shall be made, to break open in the day-time any house or place where any goods or chattels of such person or persons shall be, and if no sufficient distress can be had or taken whereon to levy the said debt and charges, then such justice or justices shall commit such person or persons to the prison of such county, riding, division, city, town, or place, there to remain until such debt and charges shall be fully paid and satisfied."

Sect. 29. "Every complaint, information, summons, conviction, warrant of distress or commitment, or other such proceeding, which shall be had or taken under the provisions of this act for the recovery of any postage or postage debt, may be drawn or made out according to the several forms contained in the schedule hereunto annexed, or to the effect thereof, *mutatis mutandis*, as the case shall require, and every such complaint, information, summons, conviction, warrant, or other such proceeding which shall be so drawn or made out shall be good and effectual to all intents and purposes whatsoever, without stating the case or the facts or evidence in any more particular manner than is required in and by such forms respectively; and that wherever the term "officer of the post-office" occurs in this act or the schedule thereto, the same shall be construed to mean and include any deputy, agent, officer, clerk, letter carrier, or other person employed by or under the post-office, whatever may be his particular office or employment; and that whenever the term "East Indies" occurs in this act, the same shall be construed to mean and include every port and place within the limits of the Forms of proceedings.

3. Postage of Letters and Packets.

Charging beyond postage.

Twopenny post.

Threepenny and general post.

† *Sic.*

Inland letters.

charter of the United Company of Merchants commonly called the East India Company, not being in China; and that whenever in this act, or the schedule thereto, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction."

Postmasters in country towns are frequently in the habit of charging a half-penny and a penny a letter on delivery at the houses in the town above the parliamentary rates, under the pretence that they are not obliged to carry the letters out of the office *gratis*. But it has been repeatedly decided that such demand is illegal, and that they are bound to deliver the letters to the inhabitants within the usual and established limits of the town, without any addition to the rate of postage. (*Rowning v. Goodchild*, 3 Wils. 443; 2 Black. Rep. 906; 5 Burr. 2716, S. C.; *Stock v. Harris*, 5 Burr. 2709; 2 Rol. Rep. 906; *Smith v. Powditch*, Cowp. 182.) And an action lies against a deputy-postmaster for non-delivery of letters *gratis* in a country post town. (*Id.*)

But by the 41 Geo. III. (United Kingdom) c. 7, s. 5 & 6, and 46 Geo. III. c. 92, s. 2 & 3, *ante*, 268, letters may be conveyed to and from places not being post towns, and charged with extra prices.

The penny post was set up in London by one Murray, in 1681; it was claimed by government in 1711, and raised to 2*d.* in 1724.

And by the 45 Geo. III. c. 11, s. 1, for the conveyance of every letter, originally sent by the twopenny post, and not first passing, and afterwards to pass by the general post, directed to or sent from places beyond the delivery of the general post letter-carriers, 1*d.*; for every letter originally passing by the general post, directed to places beyond the delivery of the general post, and afterwards delivered by the twopenny post, 2*d.*

By the 41 Geo. III. (U. K.) c. 7, so much of the 9 Anne, c. 10, 5 Geo. III. c. 25, 24 Geo. III. c. 37, and 37 Geo. III. c. 18, as establishes certain rates of postage for carriage of letters, is repealed; and in lieu thereof the following imposed:—

Miles.			Miles.		Single.	Double.		Treble.	Ounce.	
					<i>d.</i>	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>	<i>s.</i>
Above	—	not exceeding	15	3	0	6	0	6	1	0
—	15	—	30	4	0	8	1	0	1	4
—	30	—	50	5	0	10	1	3	1	8
—	50	—	80	6	1	0	1	6†	2	6
—	80	—	120	7	1	2	1	9	2	4
—	120	—	170	8	1	4	2	0	2	8
—	170	—	230	9	1	6	2	3	3	0
—	230	—	300	10	1	8	2	5	3	4

But where the distance above 300 miles is more than 100 miles, a further sum of, for every single letter, 1*d.*; double, 2*d.*; treble, 3*d.*; an ounce, 4*d.*; and so on progressively for every further distance of 100 miles a like further sum, for a single letter, 1*d.*; double, 2*d.*; treble, 3*d.*; an ounce, 4*d.*; and so in proportion.

By the 52 Geo. III. c. 88, s. 1, the following additional rates, being rated by the letter or by the ounce, are established for the carriage of letters by the post in Great Britain, above the distance of twenty miles, from the office where such letters may be put in to the office where the same may be directed: viz.

	£.	s.	d.
For every Single Letter	0	0	1
For every Double Letter	0	0	2

	£	s.	d.	3. Postage of Letters and Packets.
For every Treble Letter, or other Letter under an Ounce in Weight	0	0	3	
And for every Ounce in Weight, and for every Packet not exceeding an Ounce in Weight	0	0	4	
And so in proportion for every other letter or packet of greater weight than an ounce.				

By the third section of the act, these rates of postage are not to extend to letters sent by or to seamen and soldiers, under the 35 Geo. III. c. 53.

By the fourth section, the powers of former acts are extended to that act.

By the 26 Geo. II. c. 13, s. 8, for every single letter or cover containing one or more papers with patterns, or one or more patterns of cloth, silk, or stuff, or one or more samples of any other sort of goods, or one or more piece or pieces of any other sort or thing inclosed therein or affixed thereto, though not paper, if the same do not weigh an ounce, the rates payable by 9 Anne, c. 10, for a double letter. Letters inclosing patterns.

But by the 35 Geo. III. c. 53, s. 9, every such packet or cover shall be sent open at the sides, and without any letter or writing in, upon, or with such packet or cover, other than the name of the person sending the same and the place of his abode, and the prices of the articles contained therein or affixed thereto.

By the 45 Geo. III. c. 11, s. 1, for every such letter or packet with such inclosures, sent according to the 26 Geo. II. c. 13, and 35 Geo. III. c. 54, there shall be paid the sum of 1*d.*

And by the 52 Geo. III. c. 88, s. 2, for the conveyance by the post of every letter, packet, or cover, containing patterns of cloth, silk, stuff, or samples of other goods or other sort of thing, not exceeding one ounce in weight, if the same letter or packet or cover shall be closed or not open at the sides, an additional rate of 2*d.* for every such letter, packet, or cover: and for the conveyance by the post of every letter or cover containing one or more paper or papers with patterns, or containing one or more pattern or patterns of cloth, silk, or stuff, or one or more sample or samples of any other sort of goods, or one or more piece or pieces of any other sort of thing inclosed therein or affixed thereto, though not on paper, if the same do not weigh an ounce, an additional rate of one penny for every such letter, so as every such letter, packet, or cover shall be sent open at the sides and without any letter or writing in, upon, or with such packet or cover, other than the name of the person sending the same, and the place of his abode, and the prices of the articles contained therein, or affixed thereto.

By the 24 Geo. III. sess. 2, c. 37, s. 4, for preventing prohibited goods being imported in letters or packets, the officer employed at the post-office where any foreign letter or packet containing any inclosure shall be received may carry the same before a justice for the county, or magistrate for the town, in which such office is situate, and upon oath made that he suspects the same to contain goods which are prohibited to be imported, or upon which a duty is payable upon importation, shall, in the presence of such magistrate, cut open (a) a slit in such letter or packet not exceeding two inches in length; and if it shall appear to such magistrate that any such goods are contained therein, he shall open the same, and in the presence of such officer destroy such goods, and inclose such letter or packet in a cover, in which shall be written an attestation signed by him of the name of the officer who brought the same, and the time when, and the quantity and description of goods found therein, and that the same were destroyed; which cover shall be sealed and forwarded to the commissioners of the customs, who, on receipt Prohibited goods, suspected to be in foreign letters.

(a) And see further, as to the power to open letters, *ante*, 270.

3. *Postage of Letters and Packets.*

thereof, shall pay to the said officer any sum not exceeding 5*l.* nor less than 10*s.*

Sect. 5. And if on making such slit as aforesaid no such goods shall be found in such letter or packet, such magistrate shall inclose the same in a cover, and shall therein also send an attestation signed by him that the said opening was made in his presence, and shall deliver the same sealed up to the said officer, to be forwarded by the ordinary course. And no additional postage shall be charged in consequence of such proceeding.

Re-issuable cash notes issued by country bankers, and paid in London, may be conveyed by post to the banks whence first issued, at rates herein mentioned.

The 5 Geo. IV. c. 20, s. 1, enacts, "that from and after the passing of this act, it shall and may be lawful to and for his majesty's postmaster-general and his deputy and deputies, in his discretion, to receive at the General Post-office in London, packets containing re-issuable cash notes only, issued by country bankers under annual licence, and payable at the houses of their respective agents in London, which cash notes have been paid by such agents in London for conveyance by the post within Great Britain at his discretion, to the bank in the town or place from which such cash notes were first issued, and to no other bank, town, or place whatever; and to demand, have, receive, and take for the conveyance of such packets, to and for the use of his majesty, his heirs, and successors, rates of postage not exceeding one-fourth part of the rates and duties of postage by law established, or which may hereafter be established for the conveyance of letters and packets by the post; any law, statute, custom, or usage, to the contrary notwithstanding."

Packets conveyed to exceed six ounces, &c.

Sect. 2. "No such packet shall be conveyed under the provisions in this act unless the same shall exceed six ounces in weight, and shall be superscribed 're-issuable country bank notes only,' and certified by the signature of the agent or agents of such country bank, or one of them, in his or their own handwriting; and provided that the said packets shall contain no writing, communication, matter, or thing whatever."

Time of delivery at post-office regulated by postmaster-general.

Sect. 3. "Such packets shall be delivered to the postmaster general, or his deputy or deputies, at the General Post Office in London, at such hours in the day and under such regulations as the postmaster-general for the time being shall in his discretion from time to time appoint, and such packets shall also be delivered by the deputy or deputies of the postmaster-general in the country under such regulations and restrictions as the postmaster-general for the time being shall from time to time think fit to appoint."

Packets may be detained and examined.

Sect. 4. "It shall and may be lawful to and for his majesty's postmaster-general, and his deputy and deputies, in his or their discretion, to detain any such packet, and in the presence of the sender or senders thereof, or in his or their absence, in case of non-attendance after notice in writing left at his or their place of abode, requiring his or their attendance, to open, examine, and search the same, in order to discover whether any writing, communication, matter, or thing, other than re-issuable notes only, shall be contained therein; and in case upon examination thereof it shall be discovered that any such writing, communication, matter, or thing, other than re-issuable notes, shall be contained therein, then the sender or senders of such packets shall forfeit and pay the sum of 200*l.*, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information in any of his majesty's courts of record in Great Britain, where no essoign, protection, privilege, or wager of law shall be admitted; and it shall and may be lawful to and for his majesty's postmaster-general, or his deputy or deputies, to retain such packet until such penalty shall be recovered and paid."

Finding anything other than re-issuable bank notes in packet, penalty, 200*l.*

Application of penalties.

Sect. 5. "One moiety of the pecuniary penalty hereby imposed shall be payable to his majesty, his heirs, and successors, and the other moiety to any person who shall inform and sue for the same, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information in any of his majesty's courts of record in Great Britain, wherein no essoign, protection, or privilege, or wager of law, shall be admitted."

Money arising by rates to be carried to the consolidated fund.

Sect. 6. "The monies to arise by the several rates and duties as aforesaid, (except the monies which shall be necessary to defray such expense as shall be incurred in the management and collection of the same,) shall be

paid into the receipt of the exchequer at Westminster, and carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland." 3. *Postage of Letters and Packets.*

Irish Letters.]—The 7 & 8 Geo. IV. c. 21, and 2 Wil. IV. c. 15, are the principal acts regulating the duties of postage of letters between this kingdom and Ireland, and also the postage of letters in Ireland. Irish letters and postage.

Foreign Letters and Packets.]—The legislative enactments imposing the rates of postage of foreign letters, and for the conveyance of letters by packets, have become so numerous and complicated, that the insertion of them would to a great extent increase the bulk of this work, and they cannot be compressed into a small compass without rendering the detail of them but of little or no utility; and considering this, and that the subject involves scarcely any portion of magisterial duty, it is thought fit merely to refer to the principal legislative enactments, which are, as to foreign parts *in general*, the 37 Geo. III. c. 18; 39 Geo. III. c. 76; 41 Geo. III. c. 7; 52 Geo. III. c. 88; 54 Geo. III. c. 169; 2 Wil. IV. c. 15; 4 & 5 Wil. IV. c. 44; and 5 & 6 Wil. IV. c. 25. And as to *particular foreign parts*, the 46 Geo. III. c. 73 (Gibraltar and Malta); 48 Geo. III. c. 116 (Madeira and Brazil); 55 Geo. III. c. 153, 59 Geo. III. c. 111 (East Indies, the Mauritius, Ceylon, and Cape of Good Hope); 3 Geo. IV. c. 105 (Isle of Man); 7 & 8 Geo. IV. c. 6 (Buenos Ayres, and South America, St. Domingo, and Cuba); 4 & 5 Wil. IV. c. 44 (British Colonies). Foreign letters and packets.

IV. Postage relating to Soldiers or Seamen.

By the 35 Geo. III. c. 53, s. 7, no single letter sent by the post from any non-commissioned officer, seaman, or private, employed in the navy, army, artillery, or marines, shall, whilst so employed on his majesty's service, be chargeable with a higher rate of postage than 1*d.* for the conveyance of each letter; to be paid at the time of putting it into the post; provided that there be written upon the same, in the handwriting of and signed by the commanding officer for the time being, his name, and the ship, corps, regiment, or detachment to which such person belongs. Letters from private soldiers, seamen, &c.

Sect. 8. And no single letter sent to any such person, upon his own private concerns only, shall be charged with more than 1*d.* postage, to be paid upon delivery; but the same must be directed to such persons, and specify the ship, regiment, troop, corps, company, or detachment to which he belongs. And the deputy postmaster shall not deliver such letter to any person, except the person to whom the same shall be directed, or person appointed to receive the same by the commanding officer. Or to such persons.

By the 41 Geo. III. (U. K.) c. 7, s. 10, and 45 Geo. III. c. 11, s. 3, nothing in these acts shall alter the rates affixed by the 35 Geo. III. c. 53, s. 7, 8. 41 Geo. 3, (U. K.) c. 7.

The additional rates of the 52 Geo. III. c. 88, not to increase or alter the amount or manner of charging the rates of postage (as regulated by the 35 Geo. III. c. 53,) upon single letters to be sent by the post by or to seamen or privates employed in his majesty's navy, army, militia, fencible regiments, artillery, or marines, upon their own private concerns only, whilst such seamen and privates shall be employed in the public service. 45 Geo. 3, c. 11.

By the 46 Geo. III. c. 92 (a), s. 5, the 8th section of the 35 Geo. III.

(a) It having been found that the provisions of the statute for allowing soldiers to send and receive letters at a low rate of postage, were not yet perfectly understood, his late royal highness the Duke of York, the commander-in-chief, directed

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Soldiers and
Seamen.*

c. 53, is repealed. And by s. 6 of that act, it is enacted, that seamen, whilst actually employed in his majesty's service, may send single letters on their own private concerns only, at the rate of 1*d.* each, to be paid upon putting them into the post-office: provided that the name of the writer and his class and description in the vessel to which he shall belong shall be superscribed; and also in the handwriting of, and signed by the officer at the time commanding the vessel, his name, and that of the vessel.

And by s. 7, such seamen may receive such letters free of postage, provided that 1*d.* for each shall be paid upon putting the same into the post-office; and the name of the vessel to which they belong shall be superscribed: provided also, that such letters shall be delivered only to the seaman to whom directed, or to persons appointed to receive them by writing under the hand of the commanding officer of the vessel; commissioned officers, or warrant officers, midshipmen, or masters' mates, not included in this section.

By s. 8 and 9, the same provisions are extended to every sergeant, corporal, drummer, trumpeter, fifer, and private soldier in his majesty's regular forces, militia, fencible regiments, artillery, or royal marines, within any part of his majesty's dominions.

And by the 55 Geo. III. c. 153, s. 25, the same privilege is extended on

that the following instructions should be communicated to the army: as will appear in 3 *Burn J.*, 24 *ed.* 769.

"*Letters from Soldiers.*—Upon all single letters sent from soldiers, the name of the soldier, his rank (whether sergeant, corporal, drummer, trumpeter, fifer, or private, and the regiment, corps, or detachment, to which he belongs), are to be superscribed; all such single letters to be indorsed by the officer in the actual command of the regiment, corps, or detachment; his name, rank, and the regiment, corps, or detachment commanded by him, are to be written in his own handwriting. It is to be understood, that this indulgence is limited to single letters only. One penny must be paid at the time the letter is put into the post-office, or such letter will be liable to the full rate of postage.

"The act of Parliament alluded to directs, that if any officer, having the command of a regiment, corps, or detachment, shall wilfully write his name on any letter which is not from a soldier, and upon private concerns only, such officer shall forfeit and pay the sum of 5*l.*; that a similar penalty shall attach to any person who shall obtain the signature of the officer commanding to letters not on private concerns of soldiers; and further, that if any officer, not having at the time the command of the regiment, corps, or detachment, shall write his name upon a soldier's letter, he shall forfeit the sum of 5*l.*

"*Letters to Soldiers.*—In all cases of single letters addressed to soldiers, the rank, whether sergeant, corporal, trumpeter, drummer, fifer, or private, and the regiment, corps, or detachment, to which they belong, must be specified. One penny is to be paid by the writer or other

person, on putting the letter into a post-office; the letter will otherwise be liable to the full rate of postage. The letter cannot be delivered to any person except the soldier to whom such letter is directed, or to some one appointed to receive the same by an authority in writing under the hand of an officer having the command of the regiment, corps, or detachment, to which such soldier belongs.

"The commander-in-chief is desirous that soldiers shall have the full benefit intended by the legislature; but in order to guard against any abuse of privilege, his royal highness feels it necessary to repeat what was declared in the general orders of the 28th of February, 1814, and 14th of June, 1814, that the indulgence of the conveyance of letters to non-commissioned officers and soldiers, free of expense, is applicable exclusively to letters intended for the persons to whom they are addressed, and that no explanation which may be offered for an abuse of this privilege, which is attached exclusively to the said non-commissioned officers and soldiers, will be deemed satisfactory, or will in the least degree exculpate any officer who may directly or indirectly aid or connive at such deviation from the true intention and spirit in which this boon has been granted to soldiers, and that any non-commissioned officer or soldier who shall present to his officer a letter to be rendered free of postage, which is not his own, will be guilty of a fraud, for which it is his royal highness's express command that every offender shall be tried, and no alleviation of whatever punishment may be awarded must be expected.

"By command of his royal highness the commander-in-chief.

"HARRY CALVERT, Adjutant-General.

"Horse-Guards, 28th March, 1817."

the same conditions to the same class of men in the service of the East India Company.

By the 46 Geo. III. c. 92, s. 10, s. 8 & 9 of that act are not to extend to commissioned officers or warrant officers.

Sect. 11. Any such commander wilfully and knowingly writing his name upon any letter that is not from such seaman, &c. shall forfeit 5*l*.

Sect. 12. A like penalty is imposed upon persons, not being such commanders, writing their name upon any letter that it may be sent at a lower rate of postage than by law established.

Sect. 13. A like penalty is imposed upon those who knowingly address a letter to any such seaman, &c. which shall be intended for another person, or concerning the affairs of another person, for the purpose of evading legal postage.

Sect. 14. If any person shall procure any such seaman, &c. to obtain the signature of his commanding officer to any letter to be sent by post which shall not be on the private concerns of such seaman, &c.: or if any such seaman, &c. shall himself obtain such signature upon any letter not from such seaman, &c., and upon his own private concerns only, in order to avoid the payment of legal postage, he shall forfeit 5*l*.

Sect. 15. One moiety of the penalties imposed by this act to be to the use of his majesty, and the other to him who informs and sues, and may be recovered before one or more justices of the peace for the county, city, riding, town, or place, where the offence shall be committed, either upon the party's voluntary confession, or the oath of one witness (which oath the said justice of the peace may impose), and in default of payment the offender shall be committed to the house of correction for not exceeding one month, or until the penalty be sooner paid.

But the 4 Geo. IV. c. 81, s. 73, after reciting the 46 Geo. III. c. 92, s. 7, 9, and declaring it expedient to extend its provisions to seamen in the navy and to non-commissioned officers and soldiers whilst actually employed in his majesty's service in the East Indies and at the Island of St. Helena, and also to the non-commissioned officers and soldiers actually employed in the service of the East India Company, subject to such modifications as are hereinafter contained, increases the postage as therein mentioned.

V. Exemption from Postage, and Franking by Members of Parliament.

The 24 Geo. III. sess. 2, c. 37, s. 7, enacts that no letter or packet shall be exempted from postage except such as shall be sent to or from the king.

Letters sent to the king.

By the 42 Geo. III. c. 63, s. 1, members of parliament may send daily by post, within the United Kingdom, ten letters, and receive fifteen, not exceeding one ounce each, free from the duty of postage, on complying with certain regulations.

Sect. 2. Superscription of letters sent shall be of the handwriting of the member, with the name of the post town and date, &c.

Sect. 3. The surplus letters above the number permitted to pass free shall be charged with the postage in manner herein directed.

Sect. 4. The treasury and admiralty, secretaries of state, clerks of privy council, secretary at war, &c., may send and receive, within the United Kingdom, letters and packets free from postage.

Sect. 5. The clerk of parliaments, and certain clerks of the houses of peers and commons, may send and receive letters and packets in same manner.

And by sect. 6, so may also the treasurer and paymaster of the navy and inspector of seamen's wills.

By the 46 Geo. III. c. 142, s. 6, the surveyor-general of his majesty's woods enjoys an exemption.

By the 4 Geo. IV. c. 24, s. 6, clerks in the offices of the secretaries of

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from Postage
and Franking.*

state and post-office, being thereunto licensed by the secretaries or postmaster-general respectively, may continue to frank votes and newspapers as heretofore hath been used: provided the same be sent without covers, or in covers open at the sides.

By the 43 Geo. III. c. 119, s. 19, 20, the privilege of franking is extended to the accountant of Greenwich chest.

See as to Chelsea Hospital, 2 Wil. IV. c. 53, s. 34; as to the treasurer of the navy, 2 Wil. IV. c. 40, s. 33, and 2 & 3 Wil. IV. c. 106, s. 5.

By 42 Geo. III. c. 6, s. 9, persons entitled to send letters, &c. free, may, in case of bodily infirmity, authorize a person to write their name, &c. thereon, and on notice to the postmaster such letters shall go free.

By sect. 10, members and clerks of both houses may send votes and newspapers free, in covers open at the sides, &c.

Sect. 11. Persons heretofore authorized to send votes, &c., may continue to do so.

Sect. 12. Packets so sent may be inspected at the post-office, and if found to conceal any thing, &c., they shall be charged treble postage, &c. Unstamped newspapers shall be sent to stamp-office.

By the 54 Geo. III. c. 169, s. 17, it shall be lawful for every member of either house of parliament, to receive by the post any petition addressed to either house of parliament free from the duty of postage, so as the same be sent in a cover open at the sides, and that the same shall not exceed the weight of six ounces.

By the 44 Geo. III. c. 84, s. 1, the master-general of the ordnance, &c., may send and receive letters free from postage, as under 42 Geo. III. c. 63, s. 4.

Sect. 2. Ordnance, adjutant-general, quarter-master-general, and barrack-master-general, may appoint certain persons to indorse letters and packets to be sent free from their offices, &c.

Sect. 3, imposes a penalty for making indorsement on letters not concerning the business of the office.

By the 46 Geo. III. c. 61, s. 1, certain public officers are authorized to send and receive letters and packets free from postage.

Sect. 2. The treasury may authorize certain officers to send letters free from postage, without the name of the post-town, &c.

And by the 48 Geo. III. c. 90, letters and packets addressed to the commissioners of public accounts, or to the commissioners for barracks, or sent by the secretary to either board, shall be free of postage.

Sect. 2, imposes penalties on secretaries, &c., for sending any thing under cover not relating to the board.

Judge-advocate
general.

By the 50 Geo. III. c. 66, the judge-advocate general for the time being may send and receive letters and packets free from the duty of postage, in such manner and under such restrictions as are specified or imposed in relation to other public offices, in and by the 42 Geo. III. c. 63.

Assistant secre-
tary of post-mas-
ter-general.

By the 53 Geo. III. c. 13, the assistant secretary of the postmaster-general is permitted to frank.

By the 5 Geo. IV. c. 20, s. 11, from and after the passing of this act [April 12, 1824], the president, or first-named commissioner appointed by or in pursuance of the 1 & 2 Geo. IV. c. 90, may send and receive letters and packets by the post free from the duty of postage, within the United Kingdom, under the restrictions specified in the 46 Geo. III. c. 61.

Irish letters.

The 2 Wil. IV. c. 15, contains many provisions for bettering the postage in Ireland, and extending the privilege of franking in that country to various officers.

Forging franks,
&c.

By the 42 Geo. III. c. 63, s. 14, "if any person whatsoever shall, from and after the 1st day of July, 1802, forge or counterfeit the handwriting of any person whatsoever in the superscription of any letter or packet to be sent by the post, in order to avoid the payment of the duty of postage, or shall forge, counterfeit, or alter, or shall procure to be forged, counterfeited, or altered, the date upon the superscription of any such letter or packet, or shall write and send by the post, or cause to be written and sent by the

post, any letter or packet, the superscription or cover whereof shall be forged or counterfeited, or the date upon such superscription or cover altered, in order to avoid the payment of the duty of postage, knowing the same to be forged, counterfeited, or altered, every person so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall be transported for seven years." See "*Forgery*," Vol. II.

See also the 24 Geo. III. sess. 2, c. 37, s. 9, Vol. II.

Forms.

County [or as the case may be] of to wit. } *Be it remembered, That on this day of in the year of our Lord at in the of A. B., an officer of the post office, complaineth to me C. D., Esq., one of his majesty's justices of the peace that the sum of is due and owing from E. F. of to his majesty [or to the said A. B., if the case be so,] for the duty of postage, which he hath refused or neglected to pay; and thereupon the said A. B. prayeth of me the said justice that the said E. F. may be summoned to appear and show cause, if any he have, why, upon due proof being made of the sum due and owing from him for postage as aforesaid, a warrant of distress should not be granted for recovery thereof pursuant to the directions of the statute in that behalf made.*

*Taken and received by me the day }
and year first above written. }*

(1.) Complaint to found a warrant of distress for recovery of postage (a).

To E. F. of, &c. } *Whereas complaint hath been made unto me C. D., Esq., one of his majesty's justices of the peace for the of that the sum of is due and owing from you to his majesty [or to A. B., an officer of the post office, if the case be so,] for the duty of postage, which you have refused or neglected to pay; these are therefore to summon you to be and appear at in the said on the day of at the hour of in the noon of the same day, before me the said justice, or before such other of his majesty's justices of the peace for the said as shall be then present, in order that you may show cause, if any you have, why, on due proof being made of the sum of money due and owing from you for such duty of postage as aforesaid, a warrant of distress should not be granted for the recovery thereof pursuant to the directions of the statute in that behalf made; and if you fail to appear accordingly such proceedings will be taken as if you had appeared and had not shown any sufficient cause why such warrant should not be granted.*

(2.) Summons thereon (a).

To the constable of [or to C. D. of as the case may be.] } *Whereas complaint hath been made that E. F. of County [or as the case may be] of to wit. } is indebted to his majesty [or to A. B., an officer of the post office, if the case be so,] in the sum of for the duty of postage, which he hath refused or neglected to pay: and whereas the said E. F. hath been duly summoned, and due proof hath been made on oath before me that the sum of is due and owing from the said E. F. for such duty of postage as aforesaid, and that he hath neglected to pay the same: therefore I command you to distrain the said E. F. by his goods and chattels, and to levy thereon the said last-mentioned sum, being the amount of such duty of postage as aforesaid, and also the further sum of for the costs, charges, and expenses of proceeding for and obtaining this warrant and of the proceedings incident and relating thereto, making together the sum of ; and if within the space of five days next after the taking of such*

(3.) Warrant of distress, founded on the foregoing complaint (a).

(a) This form is given by the 5 & 6 Wil. IV. c. 25.

6. Forms.

distress the sum of _____ together with the reasonable costs and charges of taking and keeping such distress, shall not be paid, then I do hereby order and direct that you shall sell and dispose of the said goods and chattels which shall be so distrained, and that you shall levy and raise thereout the said sum of _____ and all reasonable costs and charges of taking, keeping, and selling such distress, rendering the overplus (if any) to the owner of the said goods and chattels; and you are to certify to me what you have done by virtue of this my warrant. Given under my hand and seal this _____ day of _____.

(Signed)

One of his majesty's justices of the peace
for the said _____ of _____.

(4) Warrant of commitment thereon for want of sufficient distress (a).

To the constable of _____ in the _____ of _____ and also to the keeper of the common gaol [or house of correction] at _____ in the said _____ County [or as the case may be] } Whereas complaint was made, that E. F. of _____ was indebted to his majesty [or to A. B., an officer of the post office, if the case be so,] in the sum of _____ for the duty of postage, which he had refused or neglected to pay: and whereas the said E. F. was duly summoned, and due proof was made on oath that the sum of _____ was due and owing from the said E. F. for such duty of postage as aforesaid, and that he had neglected to pay the same: and whereas a warrant has been issued directed to C. D. of _____ commanding him by distress and sale of the goods and chattels of the said E. F. to levy the said last-mentioned sum, being the amount of such duty of postage as aforesaid due and owing from the said E. F., and also the further sum of _____ for the costs, charges, and expenses of proceeding for and obtaining the said warrant and of the proceedings incident and relating thereto, making together the sum of _____: and it now appearing to me, by the oath of the said C. D., that no sufficient distress can be found whereon to levy the said duty, costs, and charges, [or, in case an insufficient distress shall have been taken, and whereas the said C. D. hath certified to me that he hath, under the said warrant, levied and raised the sum of _____ only; and it now appearing to me, by the oath of the said C. D., that no sufficient distress can be found whereon to levy the residue of the said duty, costs, and charges,] therefore I command you the said constable of _____ to apprehend and take the said E. F., and safely to convey him to the common gaol [or house of correction] of the said _____ at _____ in the said _____ and there to deliver him to the keeper thereof, together with this warrant: and I do hereby command you the said keeper to receive into your custody in the said gaol [or house of correction] him the said E. F., and him therein safely to keep until the said sum of _____, or until the sum of _____, the residue of the said duty, costs, and charges remaining after deducting the said sum of _____ so levied and raised as aforesaid, shall be fully paid and satisfied.

Given under my hand and seal this _____ day of _____.

(Signed)

One of his majesty's justices of the peace for
the said _____ of _____.

Postponement. See post, "Traverse;" "Trial and Appeal;" "Conviction," Vol. I.

Pound Breach. See "Distress," Vol. I.; "Escape," Vol. II.; "Prison-Breaking," post.

Powder for the Hair. See "Taxes," post.

(a) This form is given by the 5 & 6 Wil. IV. c. 25.

Præmunire.

PRÆMUNIRE is so called from a word in the writ, *præmunire facias* What it is.
præfatum A. B. quod tunc sit coram nobis, &c., where *præmunire* is used for
præmonere, to warn the person to appear, as is directed in the 27 Edw. III.
 c. 1, hereafter following. (1 *Inst.* 129.)

Notwithstanding that *præmunire* is not within the letter of the commission Power of justices
 of the peace, yet inasmuch as it is against the peace of the king and of the of the peace.
 realm, any justice of the peace may, either on his own knowledge, or the
 complaint of others, cause any person to be apprehended for such offence,
 and may take the examination of the person so apprehended, and the infor-
 mation of all who can give material evidence against him, and put the same
 in writing, and bind over the witnesses to the King's Bench, or gaol deli-
 very; and certify his proceedings to the same court to which he shall bind
 over such informers. (2 *Haw.* c. 8, s. 34; *Hale's Sum.* 168.)

By the 27 Edw. III. c. 1, called the Statute of Provisors, they who shall Impeaching judg-
 draw any out of the realm in plea whereof the cognizance pertaineth to the ments in the
 king's court, or which do sue in any other court, to defeat or impeach the king's court, a
 judgments given in the king's court, shall have a day, containing the space præmunire.
 of two months, by warning to be made to them, by the sheriffs or other
 officers, to appear to answer in their proper persons for the contempt; and if
 they come not at the said day, in their proper person, to be at law, they, their
 procurators, attorneys, executors, notaries, and maintainers, shall from that
 day forth be put out of the king's protection, and their lands, goods, and
 chattels forfeit to the king, and their bodies, wheresoever they may be found,
 shall be taken and imprisoned, and ransomed at the king's will. And
 upon the same a writ shall be made, to take their bodies, and to seize
 their lands, goods, and possessions, into the king's hands. And if it be
 returned that they be not found, they shall be put in exigent, and out-
 lawed.

And by the 16 Rich. II. c. 5, commonly called the Statute of *Præmunire*, Suing out foreign
 and to which the several subsequent statutes do refer, both those who pursue, process, a præ-
 or cause to be pursued, in the court of Rome, or elsewhere, any processes or munire.
 instruments, or other things whatsoever, which touch the king, against him,
 his crown and regality, or his realm, and also those who shall bring, receive,
 notify, or execute them, and their faulters, and abettors, shall be out of the
 king's protection; and their lands and tenements, goods and chattels, forfeit
 to the king; and they shall be attached by their bodies, if they may be found,
 and brought before the king and his council, there to answer; or process
 shall be made against them by *præmunire facias*, in manner as is ordained
 in other statutes of provisors.

And in these two statutes, as above recited, are contained the pains and
 penalties of what is called the *præmunire*. They were intended chiefly to
 oppose the papal encroachments in this realm; but the penalties thereof, by
 several subsequent statutes, are extended to other cases, which have no rela-
 tion to popery.

Out of the King's Protection.]—So odious was this offence formerly, that Persons guilty of
 a man who was attainted on the same might have been slain by any one a præmunire,
 without danger of law; because it was provided by law, that a man might might formerly
 do to him as to the king's enemy, and a man may lawfully kill an enemy; have been killed.
 and therefore by the 5 Eliz. c. 1, it is enacted, that it shall not be lawful
 for any one to slay any person attainted in or upon a *præmunire*. (1 *Inst.*
 130.)

But he is so far out of the king's protection, that he is disabled to bring Are disabled to
 an action for any injury whatsoever. And no one knowing him guilty, can bring an action.
 with safety give him aid, comfort, or relief. (*Inst.* 129, 130; 1 *Hawk.*
 c. 19, s. 47.)

- Præmunire.* And Mr. *Hawkins* says it has been questioned, whether he hath a right to demand surety of the peace. But *Lambard* and *Dalton*, which are the authorities he cites for it, incline to think that he hath such right. *Lambard* alleges for it the 5 Eliz. above mentioned; and *Dalton* asserts it without doubting. (*Lamb.* 80; *Dalt.* 272; 1 *Haw.* c. 60, s. 3.)
- Whether he may demand sureties.
- Lands and tenements.* *Lands and Tenements forfeited.*—Yet tenant in tail shall only forfeit lands during life; for albeit the statute enacteth that lands and tenements shall be forfeited, that must be understood of such an estate as he may lawfully forfeit, and that is during his own life. (1 *Inst.* 130.)
- Corruption of blood. Attainder in *præmunire* worketh no corruption of blood. (*Inst.* 391.)
- Prosecutions, however, for a *præmunire* are unheard of in our courts. The only instance of one is to be found in the *State Trials*; where the penalties of a *præmunire* were inflicted on some persons for refusing to take the oath of allegiance in the reign of Char. II. (See 6 *Howell's St. Tr.* 201, 210.)

Presentment.

- By grand jury. A PRESENTMENT may be that which the grand jury find and present to the court, without any indictment delivered to them; which is afterwards reduced into the form of an indictment, and in nothing else differs from an indictment.
- The presentment is drawn up in English by the jury, in a short note, for instructions to draw the indictment by; upon which the officer of the court must afterwards frame an indictment, before the party presented can be put to answer it; and it differs from an indictment, in that an indictment is drawn up at large, and brought engrossed to the grand jury to find. (2 *Lill. Abr.* 353; 2 *Inst.* 739.)
- The grand jury may present any offence within their own knowledge without a bill being sent before them at the instance of an individual prosecutor, if the offence be one of which they can legally take cognizance. (2 *Hawk.* c. 2, s. 51.)
- Form of presentment. When a presentment is regularly made, the form of it, in describing the subject matter of the offence, is the same as in an indictment, for which see "*Indictment*," Vol. III.
- By constables, &c. There are other presentments of churchwardens and constables, which may be seen under their proper titles.
- It seems from the cases of *R. v. Bridgewater and Taunton Canal Company*, 7 *B. & Cres.* 514, 1 *M. & R. M. C.* 81, S. C., that presentments of constables are of no validity, unless the constable goes before the grand jury, and makes oath to the truth of the facts he presents.
- Much annoyance and expense having arisen from presentments by constables, the 7 & 8 Geo. IV. c. 38, was passed, whereby, after reciting that "in some parts of England the petty constables of the several parishes have, from a very remote period, been required to appear at a petty session held previously to every general gaol delivery and quarter session for the county in which such parishes are situate, and to make and sign before the justice or justices of the peace attending such petty session certain presentments of various indictable and other offences: and whereas the said presentments are attended with considerable expense and loss of time, and have, in consequence of modern legislative provisions, become useless and improper;" it is enacted, "that from and after the passing of this act, no petty constable shall be required at any petty session or elsewhere to make, nor shall any high constable be required at any general gaol delivery, great session, or general or quarter session of the peace in England, to deliver any presentment respecting popish recusants, persons absenting themselves from their parish church or any other place of religious worship licensed by authority, rogues and vagabonds, inmates, retailers of brandy, ingrossers, forestallers,

reggraters, profane swearers and cursers, servants out of service, felonies and robberies, unlicensed or disorderly alehouses, false weights and measures, highways and bridges, riots, routs, and unlawful assemblies, and whether the poor are well provided for, and the constables are legally chosen and sworn."

The 5 & 6 Wil. IV. c. 50, s. 99, abolishes presentments for the non-repair of highways or turnpike roads.

The following is a form of presentment by a grand jury:—

" —shire } Be it remembered, that at a general quarter session of the peace
to wit. } of our Lord the King, holden at , for the said county, Presentment by a
on the day of , in the said year of the reign of, &c., before grand jury.
A. B. and C. D., Esqrs., and the Rev. P. Q., clerk, and others their compa-
nions, justices of our said lord the king, assigned, &c., it is presented by the oath
of M. N., O. P., Q. R., &c. [the names of the grand jurors], good and lawful
men of the said county, then and there sworn and charged to inquire for our
said lord the king, and the body of the said county, as followeth; that is to say,
aforesaid, the jurors for our sovereign lord the king, upon their oath
present, that," &c. [state the offence and conclude as in an indictment.]

Pressing Seamen. See "Impressment," Vol. III.

Presumptive Evidence. See "Evidence," Vol. II. p. 24, 25, 34.

Presumptions of Law. See "Indictment," Vol. III. Evidence,
Vol. II. p. 24.

Pretences. See "Cheat," Vol. I.

Printers.

THE 38 Geo. III. c. 78, contains a variety of regulations as to the printing and publishing of newspapers and papers of the like kind, and for which see

"Newspapers," Vol. III.

By the 39 Geo. III. c. 79, intituled, "An Act for the more effectual Suppression of Societies established for Seditious and Treasonable Purposes; and for better preventing Treasonable and Seditious Practices;" s. 23, after reciting "Whereas many societies, established of late years for treasonable and seditious purposes, and especially the said societies of 'United Englishmen,' 'United Scotsmen,' 'United Irishmen,' and 'United Britons,' and the said society called the 'London Corresponding Society,' and other corresponding societies, have at various times caused to be published, in great quantities, divers printed papers of an irreligious, treasonable, and seditious nature, tending to revile our holy religion, and to bring the profession and worship thereof into contempt among the ignorant, and also to excite hatred and contempt of his majesty's royal person, government, and laws, and of the happy constitution of these realms, as by law established, and utterly to eradicate all principles of religion and morality; and such societies have dispersed such printed papers among the lower classes of the community, either gratis, or at very low prices, and with an activity and profusion beyond all former example: and whereas all persons printing or publishing any papers or writings are by law answerable for the contents thereof, but

Printers of news-
papers.
Printers to give a
notice, in form in
annexed schedule,
to the clerk of the
peace, who is to
grant a certificate,
and file the no-
tice, and transmit
an attested copy
to secretary of
state.

39 Geo. 3, c. 79.

Penalty for keeping presses, &c. without notice, or using them in any place not expressed therein.

Not to extend to king's printers, or the universities.

Letter-founders and printing-press makers to give a notice to clerk of peace, who shall grant a certificate, and file notice, and transmit a copy to secretary of state.

Penalty for carrying on such businesses without notice.

Account to be kept of types and printing-presses sold, and to be produced when required.

Name and abode of printer to be printed on every paper, &c. (e).

such responsibility hath of late been in a great degree eluded by the secret printing and publishing of such seditious, immoral, and irreligious papers or writings as aforesaid, and it is therefore highly important to the public peace that it should in future be known by whom any such papers shall be printed; it is enacted, "that, from and after the expiration of forty days from the day of passing this act, any person having any printing-press, or types for printing, shall cause a notice (a) thereof, signed in the presence of, and attested by one witness, to be delivered to the clerk of the peace acting for the county, stewartry, riding, division, city, borough, town, or place, where the same shall be intended to be used, or his deputy, according to the form prescribed in the schedule hereunto annexed; and such clerk of the peace, or deputy respectively, shall, and he is hereby authorized and required to grant a certificate (b) in the form prescribed in the schedule hereunto annexed, for which such clerk of the peace, or deputy, shall receive the fee of one shilling, and no more, and such clerk of the peace, or his deputy, shall file such notice, and transmit an attested copy thereof, to one of his majesty's principal secretaries of state; and every person who, not having delivered such notice, and obtained such certificate as aforesaid, shall, from and after the expiration of forty days next after the passing of this act, keep or use any printing-press or types for printing, or having delivered such notice, and obtained such certificate as aforesaid, shall use any printing-press or types for printing, in any other place than the place expressed in such notice, shall forfeit and lose the sum of 20*l*."

Sect. 24. "Nothing herein contained shall extend to his majesty's printers for England and Scotland, or to the public presses belonging to the Universities of Oxford and Cambridge respectively."

Sect. 25. "From and after the expiration of forty days after the passing of this act, every person carrying on the business of a letter-founder, or maker or seller of types for printing, or of printing-presses, shall cause notice of his or her intention to carry on such business to be delivered to the clerk of the peace of the county, stewartry, riding, division, city, borough, town, or place, where such person shall propose to carry on such business, or his deputy, in the form prescribed in the schedule to this act annexed (c); and such clerk of the peace, or his deputy, shall, and is hereby authorized and required thereupon to grant a certificate in the form (d) also prescribed in the said schedule, for which such clerk of the peace, or his deputy, shall receive a fee of 1*s*. and no more, and shall file such notice, and transmit an attested copy thereof to one of his majesty's principal secretaries of state; and every person who shall, after the expiration of the said forty days, carry on such business, or make or sell any type for printing, or printing press, without having given such notice, and obtained such certificate, shall forfeit and lose the sum of 20*l*."

Sect. 26. "Every person who shall sell types for printing, or printing-presses, as aforesaid, shall keep a fair account in writing of all persons to whom any such types or presses shall be sold, and shall produce such accounts to any justice of the peace who shall require the same; and if such person shall neglect to keep such account, or shall refuse to produce the same to any such justice, on demand in writing to inspect the same, such person shall forfeit and lose, for such offence, the sum of 20*l*."

Sect. 27. "From and after the expiration of forty days after the passing of this act, every person who shall print any paper or book whatsoever, which shall be meant or intended to be published or dispersed, whether the same shall be sold or given away, shall print upon the front of every such

(a) See Form, *post*, No. 3.

(b) See Form, *post*, No. 4.

(c) See Form, *post*, No. 5.

(d) See Form, *post*, No. 6.

(e) A printer cannot recover for labour or materials used in printing any work, unless he affixes his name to it, pursuant

to this enactment. *Bensley and Another v. Bignold*, 5 *B. & Ald.* 335; see *Stephens v. Robinson*, 2 *C. & J.* 209. Query, whether a printer can recover, in an action for work and labour, for printing a periodical publication, for parts which were unstamped, if his name were printed

paper, if the same shall be printed on one side only, and upon the first and last leaves of every paper or book which shall consist of more than one leaf, in legible characters, his or her name, and the name of the city, town, parish, or place, and also the name (if any) of the square, street, lane, or court, or place, in which his or her dwelling-house or usual place of abode shall be; and every person who shall omit so to print his name and place of abode on every such paper or book printed by him, and also every person who shall publish or disperse, or assist in publishing or dispersing, either gratis or for money, any printed paper or book, which shall have been printed after the expiration of forty days from the passing of this act, and on which the name and place of abode of the person printing the same shall not be printed as aforesaid, shall, for every copy of such paper so published or dispersed by him, forfeit and pay the sum of 20*l*."

39 Geo. 3, c. 79.

Sect. 28. "Nothing in this act contained shall extend, or be construed to extend, to any papers printed by the authority and for the use of either house of Parliament."

Not to extend to papers printed by authority of Parliament.

Sect. 29. "Every person, who, from and after the expiration of forty days after the passing of this act, shall print any paper for hire, reward, gain, or profit, shall carefully preserve and keep one copy (at least) of every paper so printed by him or her, on which he or she shall write, or cause to be written or printed, in fair and legible characters, the name and place of abode of the person or persons by whom he or she shall be employed to print the same; and every person printing any paper for hire, reward, gain, or profit, who shall omit or neglect to write, or cause to be written or printed, as aforesaid, the name and place of his or her employer on one of such printed papers, or to keep or preserve the same for the space of six calendar months next after the printing thereof, or to produce and show the same to any justice of the peace, who, within the said space of six calendar months, shall require to see the same, shall, for every such omission, neglect, or refusal, forfeit and lose the sum of 20*l*."

Printers shall keep a copy of every paper they print, and write thereon the name and abode of their employer.

Penalty of 20*l*. for neglect, or refusing to produce the copy within six months.

Sect. 30. "It shall be lawful for any person, to whom, or in whose presence, any printed paper, not having the name and place of abode of any person printed thereon, in manner hereinbefore directed, or having a fictitious or false name or place of abode printed thereon, shall be sold, or offered for sale, or shall be delivered gratis, or offered so to be, or shall be pasted, fixed, or left in any public place, or in any other manner exposed to public view, to seize and detain the persons so selling or offering to sell, or delivering or offering to deliver, or pasting, fixing, or leaving, in any public place, or in any other manner exposing to public view, any such printed paper, as aforesaid, and forthwith to take and convey him or her before some justice of the peace for the county, stewartry, riding, division, city, borough, town, or place, where such person shall be seized, or to deliver him or her to some constable, or other peace officer, to be taken and conveyed before such justice, as aforesaid, to the intent that such justice may hear and determine whether such person hath been guilty of any offence against this act."

Persons selling, &c., any paper, without the name and abode of the printer, may be taken before a justice, to determine whether they have offended against this act.

Sect. 31. "Nothing herein contained shall extend to the impression of any engraving, or to the printing by letter-press, of the name, or the name and address, or business or profession, of any person, and the articles in which he deals, or to any papers for the sale of estates or goods by auction, or otherwise."

Not to extend to impressions of engravings, or the printing names and addresses, &c.;

Sect. 32. "Nothing herein contained shall extend, or be construed to extend, to alter or vary any rule, regulation, or provision contained in any act of Parliament now in force respecting the printing, publishing, or distributing any printed newspaper, or other printed paper." See "**Newspapers**," Vol. III.

nor to alter any provisions respecting newspapers.

Sect. 33. "If any justice of the peace, acting for any county, stewartry, riding, division, city, borough, town, or place, shall, from information upon

A justice may empower a peace officer to search

on the first and last leaves, on their being bound into volumes, and published at the expiration of a half year, according to the above enactment. *Marchant v. Evans*, 2 *Moore*, 14; 8 *Taunt.* 142, S. C.; see *Brown v. Duncan*, 10 *B. & Cres.* 93, and *Chit. Jun. Contracts*, 538.

39 Geo. 3, c. 79.

for presses and types he suspects to be illegally used, and to seize them and the printed papers found.

Prosecutions to be commenced within three months after penalty incurred.

Recovery of penalties.

oath, have reason to suspect that any printing-press or types for printing is or are used or kept for use without notice given and certificate obtained, as required by this act, or in any place not included in such notice and certificate, it shall be lawful for any such justice, by warrant under his hand and seal, to direct, authorize, and empower any constable, petty constable, bors-holder, headborough, or other peace officer, in the day-time, with such person or persons as shall be called to his assistance, to enter into any such house, room, and place, and search for any printing-press or types for printing; and it shall be lawful for every such peace officer, with such assistance as aforesaid, to enter into such house, room, or place, in the day-time accordingly, and to seize, take, and carry away, every printing-press found therein, together with all the types and other articles thereto belonging and used in printing, and all printed papers found in such house, room, or place."

Sect. 34. "No person shall be prosecuted or sued for any penalty imposed by this act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred."

Sect. 35. "Any pecuniary penalty imposed by this act, exceeding the sum of 20*l.*, may be sued for and recovered, by any person who will sue for the same, by action of debt, in any of his majesty's courts of record at Westminster, if such penalty shall have been incurred in England or Wales, or the town of Berwick-upon-Tweed, and in his majesty's Court of Exchequer in Scotland, if such penalty shall have been incurred in Scotland; in which action it shall be sufficient to declare or allege that the defendant is indebted to the plaintiff in the sum of 20*l.* (being the sum demanded by such action), being forfeited by an act made and passed in the thirty-ninth year of the reign of his majesty King George III., intituled, 'An Act' [*here set forth the title of the act*] (a); and the plaintiff, if he shall recover in any such action, shall have his full costs: and any pecuniary penalty imposed by this act, and not exceeding the sum of 20*l.*, and for the recovery whereof no provision is hereinbefore contained, shall and may be recovered before any justice or justices of the peace for the county, stewartry, riding, division, city, town, or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way; and, in case such last-mentioned penalty shall not forthwith be paid, such justice or justices shall, by warrant under his or their hand and seal, or hands and seals, and directed to any constable or other peace officer, cause the same to be levied

(a) See the title of the act, *ante*, p. 289. *Fleming v. Bailey*, 5 *East*, 313. The declaration, which was framed on the above 39 Geo. III. c. 79, stated that the defendant was indebted to the plaintiff in 60*l.*; and then contained three counts, in each of which the plaintiff went for a penalty of 20*l.*, under the statute, for printing a certain paper meant to be published and dispersed, and omitting the printer's name and place of abode, as required by s. 27. After verdict for the plaintiff, *Lawes* moved in arrest of judgment, that no action lay by a common informer to recover penalties not exceeding 20*l.* under this statute; and, in support of the motion, s. 35 was cited. *Birch* showed cause, and, amongst other things, contended, that the jurisdiction of the superior courts could not be ousted without express words, or by necessary implication; and that here no such words or necessity existed: he cited *Hill v. Dechair*, *Sty.* 381; *Shipman v. Henbest*, 4 *T. R.*

109; *R. v. Morley*, 2 *Burr.* 1040; *Cates q. t. v. Knight*, 3 *T. R.* 442, and 2 *Haw. c.* 26, s. 26, 30. But *per Lord Ellenborough*, C. J., a common informer can have no right to sue for any penalty, but where power is given to him for that purpose by the statute. Now, the statute in question only says, that a common informer may sue in any court of record for any pecuniary penalty imposed by the act not exceeding 20*l.* The penalty given for this offence, each of which must be taken by itself, and cannot be reckoned accumulatively, does not exceed 20*l.*; and, therefore, it is not within the provisions of the 35th clause, which give an action. And the sense of that clause requires that the form of the declaration there afterwards given should be read the same as if the sum to be recovered were left in blank; for how otherwise can the penalty of 100*l.* given by the 15th section be recovered? *Per Cur.*—Judgment arrested.

by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and, in case no sufficient distress can be had or made, such justice or justices shall commit the offender to the common gaol or house of correction for such county, stewardry, riding, division, city, borough, town, or place, there to remain, without bail or mainprize, for any time not exceeding six calendar months, nor less than three calendar months."

39 Geo. 3, c. 79.

Sect. 36. "All pecuniary penalties and forfeitures imposed by this act shall, when recovered, either by action in any court, or in a summary way before any justice, be applied and disposed of in manner hereinafter mentioned; that is to say, one moiety thereof to the plaintiff in any such action, or the informer before any justice, and the other moiety thereof to his majesty, his heirs and successors."

Application of penalties.

Sect. 37. "Every action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer, or other person or persons, for anything done or acted in pursuance of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and, in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs; which he or they shall and may recover in such and the same manner as any defendant can by law in other cases." (See as to clauses of this kind, title "Justices," Vol. III.)

Limitation of actions.

Venue.

General issue.

Double costs.

Sect. 38. "Convictions by any justice or justices of the peace for offences against this act, and adjudications of forfeitures of licences to be made in pursuance of this act, and notices and certificates delivered and granted in pursuance of this act, shall or may be in the several forms set forth for such purposes respectively in the schedule to this act annexed." (See the Forms, *post*, 294, 295.)

Form of convictions, &c.

By the 51 Geo. III. c. 65, to explain and amend the 39 Geo. III. c. 79, so far as respects certain penalties on printers and publishers:

51 Geo. 3, c. 65.

Sect. 1, reciting the 39 Geo. III. c. 79, s. 27, 35, enacts, "that nothing in the twenty-seventh section of the said act contained shall extend to make any person or persons offending against the same liable to more than twenty-five forfeitures or penalties for printing or publishing, or dispersing, or assisting in publishing or dispersing, any number of copies of one and the same paper or book, contrary to the said section of the said act."

Printing papers or books contrary to 39 Geo. 3, c. 79.

Sect. 2. "If any justice or other magistrate, before whom any person shall be convicted of any offence or offences against the provisions of the before-mentioned act, shall see cause to mitigate such penalty or penalties, it shall be lawful for such justice or other magistrate to mitigate or lessen the same to any sum not less than 5*l.*, over and above all reasonable costs and charges expended or incurred in the prosecution."

Justices may mitigate penalties.

Sect. 3, reciting that "doubts have arisen whether the provisions contained in the said act may not be considered as extending to notes and post bills of the governor and company of the Bank of England, and to bills of exchange, promissory notes, bonds, and other securities for payment of money, bills of lading, policies of insurance, letters of attorney, transfers or assignments of public stocks, funds, and other securities, and to dividend warrants, receipts for money or goods, deeds, or other instruments, proceedings in the courts of law and equity, and other inferior courts, warrants,

Name and residence of printers not required to be put to bank-notes, bills, &c., or to any paper printed by authority of any public board or public office.

Forms.

orders, and other papers, printed by the authority of any public board or public officer, in the execution of the duties of their respective offices, many of which securities, instruments, proceedings, and other matters aforesaid, are usually wholly or in part printed;" enacts, "that nothing in the said recited act or in this act contained shall extend, or be construed to extend, to require the name and residence of the printer to be printed upon any such bank note, bank post bill, bill of exchange, or promissory note, or upon any bond or other security for payment of money, or upon any bill of lading, policy of insurance, letter of attorney, deed, or agreement, or upon any transfer or assignment of any public stocks, funds, or other securities, or upon any transfer or assignment of the stocks of any public corporation or company, authorized or sanctioned by act of parliament, or upon any dividend warrant of or for any such public or other stocks, funds, or securities, or upon any receipt for money or goods, or upon any proceedings in any court of law or equity, or in any inferior court, warrant, order, or other papers, printed by the authority of any public board or public officer, in the execution of the duties of their respective offices, notwithstanding the whole or any part of the said several securities, instruments, proceedings, matters, and things aforesaid, shall have been or shall be printed; any thing herein or in the said recited act contained to the contrary thereof in anywise notwithstanding."

Appeal.

Sect. 4. "If any person or persons shall think himself, herself, or themselves aggrieved by any conviction, judgment, or determination of any justice or justices, relating to any matter or thing in the before-mentioned act contained, then and in that case he, she, or they may appeal to the justices of the peace at the general quarter sessions to be holden in and for the county, city, or place where such conviction, judgment, or determination shall have been made, next after the expiration of twenty days from the making thereof, first giving six days' notice of such appeal to the person or persons prosecuting for such penalty or penalties; and the said justices shall hear and determine the said appeal at such general quarter sessions, or, if they think proper, adjourn the hearing thereof until the next general quarter sessions, to be holden for such county, town, or place; and the said justices may, in like manner, if they see cause, mitigate any penalty or penalties, and may order any money to be returned which shall have been paid or levied under any conviction as aforesaid, and may also order and award such costs to be paid by either party to the other, as they shall think and judge reasonable."

Forms.

(1.) Information on 39 Geo. 3, c. 79, s. 27, for publishing printed hand-bills without the printer's name.

—shire } Be it remembered, that on the day of , in the
to wit. } year of the reign of our sovereign lord , and in the year
of our lord , at , in the parish of , in the county of
 , J. E., of the parish of , in the same county, , came
before me, one of his majesty's justices assigned to keep the peace of our
said lord the king, in and for the said county, and giveth me, the said justice, to
understand and be informed, that J. B., of the parish of aforesaid, in
the county aforesaid, (yeoman,) within the space of three calendar months now
last past, that is to say, on the day of , in the year of
the reign of our said lord the king, at the parish of aforesaid, in the
county aforesaid, did publish and disperse, gratis, one printed paper, printed on
one side only, and consisting of one leaf only, in the words and figures follow-
ing, that is to say, [if the document be not long, here copy it verbatim,] and which
said printed paper had been printed after the expiration of forty days from the
passing of a certain act of parliament made and passed in the 39th year of the
reign of his late majesty, King George the Third, intituled, 'An Act for the
more effectual Suppression of Societies established for Seditious and Treasonable
Practices, and for better preventing Treasonable and Seditious Practices;' and
the said J. E. further giveth me, the said justice, to understand and be informed,
that at the time of the publishing and dispersing the said printed paper as afore-

said, there was not printed upon the front thereof, in legible characters, the name of the person who printed the same, or the name of the city, town, parish, or place, or the name of the square, street, lane, court, or place in which such person's dwelling-house or usual place of abode was, according to the form of the statute in such case made and provided, contrary to the form of the statute in such case made and provided; whereby, and by force of the said statute, the said J. B. forfeited and became liable to pay for his said offence the sum of 20l.: and thereupon the said J. E. prays judgment of me, the said justice, and that the said J. B. may be summoned to answer the premises, and to make defence thereto, before me, the said justice, &c.

[A form of conviction for this offence may be readily framed from this and the next precedent.]

Conviction for like offence.

The schedule to which the 39 Geo. III. c. 79, refers.

_____ } Be it remembered, that on this _____ day of _____, in the _____
to wit. } year of the reign of _____, A. B., of _____, is
duly convicted before me, [or, us] _____ of his majesty's justices of the peace
for _____, in pursuance of an act of the 39th year of the reign of King
George the Third [set forth the title of the act (ante, p. 289)], for that the said
A. B., on the _____ day of _____, at _____, did, contrary to the said act,
keep [or, use, as the case may be,] a printing-press [or, types for printing; or,
carrying on the business of a letter-founder, or, maker or seller of types, or,
printing-presses,] not having given such notice, and obtained such certificate, as
by the said act is required [or, in _____, being a place not specified in any
notice given by the said A. B. in pursuance of the said act, whereupon he had
obtained such certificate, as by the said act is required; or, not keeping an ac-
count of a person to whom the said A. B. sold printing-types, or, a printing-
press, as the case may be; or, not printing his name, &c. as the case may require;
or, not keeping a copy of a paper printed by him for hire, reward, gain, or profit,
to wit, a paper [describing it], which the said A. B. printed, &c.; or, not pro-
ducing a copy of a paper printed, &c.; or, specifying any other offence against the
act, and the time and place when and where the same was committed.] Wherefore I
[or, we], the said _____, do adjudge that he, the said A. B., do pay the sum
of _____ (a), as a penalty for his offence, in pursuance of the said act. Given
under our hands and seals, this _____ day of _____, in the year of our Lord
_____, and in the _____ year of the reign of his majesty King _____.

(2.) Conviction of having or using a printing-press, or types for printing, without notice, or using the same in a place not specified in such notice, or not keeping accounts as required by the act, or any other offence against the act (b).

To the Clerk of the Peace for [here insert the county, stewartry, riding, division,
city, borough, town, or place], or his deputy.

I, A. B., of _____, do hereby declare, that I have a printing-press and
types for printing, which I propose to use for printing, within _____ [as the
case may require], and which I require to be entered for that purpose, in pursu-
ance of an act passed in the thirty-ninth year of the reign of his late majesty
King George the Third [set forth the title of the act, ante, 289]. Witness my
hand this _____ day of _____.
Signed in the presence of _____.

(3.) Notice to clerk of the peace, that any person keeps any print- ing press, or types for printing (b).

I, _____, clerk [or, deputy clerk] of the peace for _____, do hereby
certify, that A. B. of _____, hath delivered to me a notice in writing, appear-
ing to be signed by him, and attested by C. D. as a witness to his signing the
same, that he, the said A. B., hath a printing-press and types for printing, which
he proposes to use for printing, within _____, and which he has required to
be entered, pursuant to an act passed in the thirty-ninth year of his late majesty
King George the Third's reign [set forth the title of the act, ante, 289]. Wit-
ness my hand, this _____ day of _____.

(4.) Certificate that notice has been given of a printing-press, or types for print- ing (b).

(a) Or if the penalty be mitigated, see a form, ante, "Conviction," Vol. I.

(b) The act gives this form.

Forms.

(5.) Notice to clerk of the peace, that any person carries on the business of a letter-founder, or maker or seller of types for printing, or printing-presses (a).

To the Clerk of the Peace for [as the case may be], or his deputy.
I, A. B., of , do hereby declare, that I intend to carry on the business of a letter-founder, or maker or seller of types for printing, or, of printing-presses [as the case may be], at ; and I hereby require this notice to be entered, in pursuance of an act passed in the thirty-ninth year of the reign of his late majesty King George the Third [set forth the title of the act, ante, 289].
Signed in the presence of .

(6.) Certificate that the above notice has been given (a).

I, G. H., clerk [or, deputy clerk] of the peace for [as the case may be], do hereby certify, that A. B., of , hath delivered to me a notice in writing, appearing to be signed by him, and attested by E. F. as a witness to his signing the same, that he intends to carry on the business of a letter-founder, or maker or seller of types for printing, [or, of printing-presses], at ; and which notice he has required to be entered, in pursuance of an act of the thirty-ninth year of his late majesty King George the Third [set forth the title of the act, ante, 289]. Witness my hand, this day of .

Principals. See "Accessory," Vol. I.

Prison and Prisoner. See "Gaol," Vol. II.; "Insolvents," Vol. III.

Prison Books, Evidence by. See "Evidence," Vol. II. p. 47.

Prison-Breaking.

FOR the law relative to escapes where there is no actual *breaking* of the prison, see "**Escape**," Vol. II., and as to Rescues, see "**Rescue**," *post*.

At common law.

It seemeth that, at the common law, all prison-breaches were felonies, if the party were lawfully in custody for any cause whatsoever. (2 Haw. c. 18, s. 1.)

By statute.

But by the following statute, which is called the statute *de frangentibus prisonam*, the severity of the common law is moderated; in the explication of which statute will be contained the whole learning relating to this subject.

The statute is this: concerning prisoners which break prison, the king willeth and commandeth that none that breaketh prison shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convicted thereupon, according to the law and custom of the realm.

Prison broken by a stranger.

Concerning Prisoners which break.]—Therefore, if the prison be broken by a stranger, and not by the prisoner, or by his procurement, this is no felony in the prisoner. *Hale's Sum.* 108.

What shall be deemed a prison.

Which break Prison.]—It seems clear that any place whatsoever wherein a person under a lawful arrest for a supposed crime is restrained of his liberty, whether in the stocks, or street, or in the common gaol, or the house

(a) The act gives this form.

of a constable or private person, is properly a prison within this statute; for imprisonment is nothing else but a restraint of liberty. (2 Haw. c. 18, s. 4.)

And therefore this extendeth as well to a prison in law as a prison in deed. (2 Inst. 589).

But there must be an actual *breaking*; for if the door be open and he goes out, it is not felony, but a misdemeanor only. (2 Inst. 589; 2 Haw. c. 18, s. 9.) Must be an actual breaking.

But if the prison be fired without the privity of the prisoner, he may lawfully break, to save his life. (Hale's Sum. 108.)

Also, it seems that no breach of prison will amount to felony, unless the prisoner escape. (2 Haw. c. 18, s. 12.)

But there need not, it seems, be any actual intent to break, to constitute the offence. Where, therefore, it appeared that the prisoner made his escape from the house of correction, by tying two ladders together and placing them against the wall of the yard, and, in making his escape, had thrown down some of the bricks of the wall, this was held to be a sufficient breaking. (R. v. Haswell, R. & R. 458.)

That none that breaketh Prison shall have Judgment of Life or Member.] How punishable.
—That is, shall be guilty of felony. But, nevertheless, he is still punishable as for a high misprision, by fine and imprisonment; for it cannot be thought the meaning of the statute, in ordaining that such offences shall not be punished as capital ones, to intend that they shall not be punished at all. (2 Haw. c. 18, s. 21.)

Except the Cause for which he was taken and imprisoned did require such Judgment.]—This is to be intended of a *lawful* cause; and therefore *false imprisonment* is not within this act. (2 Inst. 590.) Party must be lawfully in prison.

Imprisonment is a restraint of a man's liberty under the custody of another, by lawful warrant, in deed or in law. Lawful warrant is either when the offence appeareth by matter of record, as when the party is taken upon an indictment; or when it doth not appear by matter of record, as when a felony is done, and the offender, by a lawful *mittimus*, is committed to gaol for the same: but between these two cases there is a great diversity; for in the first case, whether any felony were committed or no, if the offender be taken by force of a *capias*, the warrant is lawful, and if he break prison, it is felony, although no felony were committed; but in the other case, if no felony be done at all, and yet he be committed to prison for a supposed felony, and break prison, this is no felony, for there is no *cause*. (2 Inst. 590.) Imprisonment, what.

So that the cause must be just and not feigned, for things feigned require no judgment: thus, if a man give another a mortal wound, for which he is committed to prison, and breaketh prison, and the other dieth of the wound within the year, this death hath relation to the stroke; but because relations are but fictions in law, and fictions are not here intended, this prison-breaking is not felony. (2 Inst. 591; Cole's case, Plowd. Com. 401.) For what.

So that the offence for which the party was imprisoned must be a capital one at the time of the offence, and not become such by a matter subsequent. (2 Haw. c. 18, s. 14.)

And the cause must be expressed in the *mittimus*, although not so certainly as in an indictment; yet with such a convenient certainty as it may appear judicially that the offence requireth such judgment; as, not for felony generally, but for felony in stealing such a horse, and the like. (2 Inst. 591.)

But if the offence for which the party is committed be supposed in the *mittimus* to be of such a nature as requires a capital judgment; yet if, in the event, it be found to be of an inferior nature, and not to require such a judgment, it seems difficult to maintain that the breaking of the prison, on a commitment for it, can be felony; for the words of the statute are, except the cause for which he was taken and imprisoned did require such

Prison-Breaking.

Suspicion, &c.

judgment; and here it appears that the offence, which is the cause of his imprisonment, doth not require such a judgment. (2 Haw. c. 18, s. 15.)

But if a man be committed by lawful warrant for *suspicion* of felony done, if he break prison he may be indicted for that escape, albeit the commitment be for suspicion of felony, and yet no judgment can be given against him for suspicion, but for the felony itself, whereof he is suspected. (2 Inst. 592.)

And an indictment that such a person *feloniously broke the prison*, generally, is not good; but it ought to rehearse the specialty of the matter, that he, being imprisoned for such or such felony, broke the prison. (2 Inst. 591.)

But if the party be only arrested for and in his *mittimus* charged with a crime which doth not require judgment of life or member, as petit larceny, or homicide by self-defence or by misadventure, and the offence be in truth no greater than the *mittimus* doth suppose it to be, it is clear, from the express words of the statute, that the breaking of the prison cannot amount to felony. (2 Haw. c. 18, s. 15.)

But if a felony be made by a subsequent statute, and an offender is committed thereupon, if he break prison, it is felony; for, since all breaches of prison were felonies by the common law, which is restrained by this statute in respect only of imprisonment for offences not capital, when an offence becomes capital, it is as much out of the benefit of the statute as if it had always been so. (Hale's Sum. 108.)

Also, it is said that the party may be arraigned for prison-breaking, before he be convicted of the crime for which he was imprisoned; for that it is not material whether he were guilty of such crime or not; for the words of the statute are, *for which he was taken and imprisoned*. (2 Haw. c. 18, s. 16.)

But if he be first indicted and acquitted of the principal felony, he shall not be indicted for the breach of prison afterwards; for it being clear that he was not guilty of the felony, he is in law as a person never committed for felony, and so his breach of prison is no felony. (1 Hale, 612.)

Voluntary or negligent gaoler.

But the gaoler shall not be punished as a felon for the party's breach of prison, unless he voluntarily consented to it: but it seems to be a negligent escape in the gaoler, for which he may be punished by fine and imprisonment, because there wanted either that due strength in the gaol, or that due vigilance in the gaoler or his officers, that should have prevented it; and if gaolers might not be punished for this as a negligent escape, they would be careless either to secure their prisoners or to retake them that escape. (1 Hale, 601.)

And therefore if a criminal, endeavouring to break the gaol, assault his gaoler, he may be lawfully killed by him in the affray. (1 Haw. c. 28, s. 13.)

The 4 Geo. IV. c. 64, s. 43, 44, contains provisions relating to the venue, trial, and evidence in prosecutions for prison-breaking and escapes: see them under title "*Escape*," Vol. II. p. 8, 11.

Escape of offenders convicted by courts-martial, and having a conditional pardon.

By the Mutiny Act, it is usually enacted, that if any offender, under sentence of death by a court-martial as aforesaid, shall obtain his majesty's conditional pardon as aforesaid, all and every the laws now in force touching the escape of felons under sentence of death, shall apply to such offender and to all persons aiding, abetting, or assisting in any escape or intended escape of any such offender, or contriving any such escape, from the time when such order shall be made by such justice or baron as aforesaid, and during all the several proceedings which shall be had for the purposes aforesaid.

Assaults on peace officers.

As to assaulting peace-officers, see the 9 Geo. IV. c. 31, s. 25; "*Assault*," Vol. I.

Forms.

Commencement as usual, *ante*, p. 175, No. 1.] *That A. O., on the* day (1.) Commitment
of A. D. at the parish of, in the said county, being then for prison-
imprisoned in the house of correction at, in the said county, under and breaking.
by virtue of a warrant of commitment of one of his majesty's justices of the peace
for, [feloniously] (a), unlawfully, and wilfully, did break the said
prison, and escape from the same. And you, the said keeper, &c. [And conclude
as usual, as ante, p. 175, No. 1.]

— (venue). *The jurors for our lord the king upon their oath present, that* (2.) Indictment
A. C., late of the parish of, in the county of, [yeoman], con- for prison-break-
stable of our said lord the king, in and for the [town] of, in the said ing, by escaping
county, on the day of, in the year of the reign of from a consta-
, at, within the [town] and constablewick aforesaid, in the ble (b).
county aforesaid, did take and arrest one A. O., late of, [labourer], on
suspicion of having committed a certain [felony, in feloniously taking and leading
away one black gelding, the property of, of the value of, and
thereupon he the said A. O., under the custody of him the said A. C., the constable
aforesaid, was brought before J. P., Esq., one of the justices of our said lord the
king assigned to keep the peace in the said county, and also to hear and determine
divers felonies, trespasses, and other misdemeanors, within the said county com-
mitted; and he the said J. P., by his warrant, directed to the said A. C. and
others, did command the said A. C. to carry and convey the said A. O. to the
gaol of our said lord the king, at, in the county aforesaid, there to be
safely kept until he should be lawfully delivered from thence; by virtue of which
said warrant he the said A. O. was taken and detained by him the said A. C.;
and whilst he the said A. C. was conveying and carrying him the said A. O. to
the gaol aforesaid, afterwards, to wit, on the day of, in the year
aforesaid, he the said A. O., of, aforesaid, in the county aforesaid, with
force and arms, did [feloniously] break away and escape from and out of the
custody of him the said A. C., the constable aforesaid, against the will of him
the said A. C., and against the peace of our said lord the king, his crown and
dignity.

— (venue). *The jurors for our lord the king upon their oath present,* (3.) Indictment for
that A. O., late of the parish of, in the county aforesaid, [labourer], breaking out of
on the day of, in the year of the reign of, at gaol.
aforesaid, in the county aforesaid, was arrested, imprisoned, and
detained, in the gaol of our said lord the king, for a certain [felony] by him com-
mitted; that is to say, for [feloniously taking and leading away one black gelding,
the property of, of the value of,]; and that he the said A. O.,
on the day of, in the year aforesaid, with force and arms, the
aforesaid gaol of our said lord the king, at aforesaid, in the county
aforesaid, [feloniously] (c) did break, and thereby did escape from and out of the
said gaol, against the peace of our said lord the king, his crown and dignity.

(a) Omit the word "feloniously," if &c.; and *ante*, "Escape," Vol. II.

the defendant were in custody for a misde- (c) Omit this word if party was not in
 meanor. custody for treason or felony.

(b) See forms, 2 Chit. C. L. 158,

Prisoners of War.

Aiding prisoners
of war to escape.

BY the 52 Geo. III. c. 156, "every person who shall, from and after the passing of this act, knowingly and wilfully aid or assist any alien enemy of his majesty, being a prisoner of war in his majesty's dominions, whether such prisoner shall be confined as a prisoner of war in any prison or other place of confinement, or shall be suffered to be at large in his majesty's dominions, or any part thereof, on his parole, to escape from such prison or other place of confinement, or from his majesty's dominions, if at large upon parole, shall, upon being convicted thereof, be adjudged guilty of felony, and be liable to be transported as a felon for life, or for such term of fourteen or seven years, as the court before whom such person shall be convicted shall adjudge."

Transportation.

Aiding though
not assisting pri-
soner in quitting
coast.

Sect. 2. "Every person who shall knowingly and wilfully aid or assist any such prisoner at large on parole in quitting any part of his majesty's dominions where he may be on his parole, although he shall not aid or assist such person in quitting the coast of any part of his majesty's dominions, shall be deemed guilty of aiding the escape of such person under the provisions of this act."

Assisting on high
seas prisoners to
escape.

Sect. 3. "If any person or persons, owing allegiance to his majesty, after any such prisoner as aforesaid hath quitted the coast of any part of his majesty's dominions in such his escape as aforesaid, shall knowingly and wilfully, upon the high seas, aid or assist such prisoner in his escape to or towards any other dominions or place, such person shall also be adjudged guilty of felony, and be liable to be transported as aforesaid; and such offences committed upon the high seas, and not within the body of any county, shall and may be inquired of, tried, heard, determined, and adjudged in any county within the realm, in like manner as if such offences had been committed within such county."

Transportation.

Offences, where
tried.

Offences tried
otherwise than
under provisions
of act.

Sect. 4. "This act shall not be deemed or taken to prevent any person, committing any offence mentioned in this act, from being prosecuted, in such manner as he might by law have been prosecuted if this act had not passed; but, nevertheless, no person prosecuted otherwise than under the provisions of this act, shall be liable to be prosecuted for the same offence under the provisions hereof; and no person prosecuted under the provisions of this act shall, for the same offence, be liable to be otherwise prosecuted."

Prize-Money. See "Seamen," *post*; "Military Law," Vol. III.

Prize-Fighting. See "Fighting," Vol. II.; *Death by.* See "Homicide," Vol. III.

Probate, Proof by. See "Evidence," Vol. II. p. 56.

Process.

PROCESS is so called because it *proceeds* or issues forth in order to bring What, the defendant to answer the charge preferred against him; and signifies the writs or judicial means by which he is brought to answer.

Process prior to Indictment, not referrible to Appearance in Courts of Record.

- See 1. *Summons, post.*
 2. *Warrant, post.*
 3. *Search-Warrant, post.*
 4. *Commitment, Vol. I.*

Process after Indictment, and referrible to Appearance in Courts of Record; and herein—

- I. *To compel an Appearance, p. 301 to 306.*
 II. *Of Outlawry for Non-appearance, p. 306 to 309.*

Process against Witnesses. See "*Evidence*," Vol. II. p. 99 to 102.

Process against Jurors. See "*Jurors*," Vol. III.

Process for Contempt. See "*Attachment*," Vol. I.

I. To compel an Appearance in a Court of Record (a).

By the commission of the peace, the justices in sessions have power to make and continue processes upon indictments against the persons indicted, until they can be taken, surrender themselves, or be outlawed. Process by the commission.

And by the 1 Edw. IV. c. 2, indictments and presentments taken in the sheriff's tourn shall be delivered to the next sessions, who may award process thereupon in like form as if they had been taken before themselves. Process on indictments taken in the tourn.

And the law also in several cases in express words directs process to be made by justices out of sessions; and in other cases by necessary implication; and where a statute doth give power to justices out of sessions to inquire, hear, and determine, there they may make process to cause the party to come and answer, otherwise they cannot proceed to hear and determine; and this may be either before or after presentment or indictment, as the several statutes do require: before presentment or indictment, it is called a *warrant*; after presentment or indictment, it is properly called *process*. (*Dalt. c. 193, p. 471.*) Process by justices out of sessions.

Commonly, an indictment, being but an accusation against a man, is of no force but only to put him to answer unto it. And hereof all process hath the name, because it *proceedeth*, or goeth out, upon former matter, either original or judicial. (*Lamb. 519.*) Process, what,

And it seemeth plain, from the nature of the thing, that there can be no need of process where the defendant is present in court, but only where he is absent. (2 *Haw. c. 27*; 1 *Chit. C. L. 338.*) No need of, if party be present,

(a) As to this kind of process in general, see 1 *Chit. C. L. 337 to 347*; *Com. Dig. Process*; also, *Mr. Gude's work* on the subject.

To be in the king's name.

The process ought to be in the name of the king. And if it issue from the King's Bench, it ought to be under the teste of the chief justice. If it issue from any other court, there seems to be the same reason that it ought to be under the teste of the first in the commission. (2 Haw. c. 27, s. 8 ; 1 Chit. C. L. 339.)

When returnable.

Upon an indictment in sessions, (for a misdemeanor, not being a felony,) there must be fifteen days between the teste and return of the *venire* ; but if the entry be by consent of parties, the *venire* may be returnable *immediatè*, and the trial be the same day. (Anon. 3 Salk. 371.)

Process for felony.

Process on an indictment for felony, by the 25 Edw. III. c. 14, is two *capiases*, and then an exigent. (Hale's Sum. 209 ; 2 Haw. c. 27, s. 115.)

Process for misdemeanors, &c.

The ordinary processes upon all indictments of trespass against the peace, or of other offences against penal statutes, not being felony, or a greater offence, are as follow : first, if the offender be absent, a *venire facias*, which is but in the nature of a summons to cause the party to appear, shall be awarded, except where other process is directed by some statute. (2 Haw. c. 27, s. 9.)

If it appear by the return of such *venire*, that the party hath lands in the county, whereby he may be distrained, the *distress infinite* shall be awarded from time to time till he do appear, and by force thereof he shall forfeit on every default so much as the sheriff shall return upon him in issues. But if a *nil* be returned on such a *venire*, then three *capiases*, that is, a *capias*, *alias*, and *pluries*, shall issue. (2 Haw. c. 27, s. 10.)

Where the inhabitants of a parish are indicted or presented, the process is, first, a *venire*, then a *distringas*.

And see further, as to the different kinds of process, 1 Chit. C. L. 338.

Process on informations.

By the 21 Jac. I. c. 4, by which all popular actions on penal statutes are restrained to their proper counties, the like process in every popular action, bill, plaint, suit, or information on a penal statute, before the quarter sessions (or higher courts), shall be awarded as in an action of trespass *vi et armis*, at the common law.

And, consequently, the process in all such suits must be by attachment or *pone per vadios* ; and afterwards by *distress infinite*, where by the return the party appears to be sufficient, otherwise by *capias*. (2 Haw. c. 27, s. 13.)

When any person is charged with any offence (not being treason or felony) for which he may be prosecuted by indictment or information in K. B ; upon affidavit thereof, or on certificate of indictment, &c., being filed, any judge of the court may issue his warrant to apprehend the party ; who shall be thereupon held to bail to answer the charge, or on failure of bail shall be committed : and if any person in custody for want of bail shall not plead in eight

The 48 Geo. III. c. 58, s. 1, enacts, " That whenever any person shall be charged with any offence for which he or she may be prosecuted by indictment or information in his majesty's court of King's Bench, not being treason or felony, and the same shall be made appear to any judge of the same court by affidavit, or by certificate of an indictment or information being filed against such person in the said court for such offence, it shall and may be lawful for such judge to issue his warrant under his hand and seal, and thereby to cause such person to be apprehended and brought before him or some other judge of the same court, or before some one of his majesty's justices of the peace, in order to his or her being bound to the king's majesty with two sufficient sureties, in such sum as in the said warrant shall be expressed, with condition to appear in the said court at the time mentioned in such warrant, and to answer to all and singular indictments or informations for any such offence ; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such judge or justice respectively to commit such person to the common gaol of the county, city, or place where the offence shall have been committed, or where he or she shall have been apprehended, there to remain until he or she shall become bound as aforesaid, or shall be discharged by order of the said court in term time, or of one of the judges of the said court in vacation ; and the recognizance to be thereupon taken shall be returned and filed in the said court, and shall continue in force until such person shall have been acquitted of such offence, or in case of conviction, shall have received judgment for the same, unless sooner ordered by the said court to be discharged ; and that

where any person, either by virtue of such warrant of commitment as aforesaid, or by virtue of any writ of *capias ad respondendum* issued out of the said court, is now detained, or shall hereafter be committed to and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol wherein such person is or shall be so detained, with a notice thereon indorsed, that unless such person shall, within eight days from the time of such delivery of a copy of the indictment or information aforesaid, cause an appearance, and also a plea of demurrer to be entered in the said court to such indictment or information, an appearance and the plea of not guilty will be entered thereto in the name of such person; and in case he or she shall thereupon, for the said space of eight days after such delivery of a copy of the indictment or information as aforesaid, neglect to cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, it shall be lawful for the prosecutor of such indictment or information, upon an affidavit being made and filed in the said court, of the delivery of a copy of such indictment or information, with such notice indorsed thereon as aforesaid, to such person, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the said court, to cause an appearance and the plea of not guilty to be entered in the said court to such indictment or information, for such person, and such proceedings shall be had thereupon as if the defendant in such indictment or information had appeared and pleaded not guilty, according to the usual course of the said court; and that if, upon the trial of such indictment or information, any defendant so committed and detained as aforesaid, shall be acquitted of all the offences therein charged upon him or her, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of the said court of King's Bench, to order that such defendant shall be forthwith discharged out of custody as to his or her commitment as aforesaid, and such defendant shall be thereupon discharged accordingly."

days after copy of indictment, &c., and notice to plead, are delivered at the gaol, the prosecutor may enter the plea of not guilty, and proceed to trial.

Party acquitted may be discharged.

Bench warrants.

It appears now to be the established practice, independently of this statute, upon an indictment found for a misdemeanor at the assizes or sessions, to issue a bench warrant, signed by a judge or justices of the peace, or two of the latter, to apprehend the defendant; and, when the assizes and sessions are over, the clerk of assize, and clerk of the peace respectively, will, on the application of the prosecutor, grant a certificate of the indictment having been found, upon which any judge of the King's Bench, or justice of the peace of the proper county, will grant a warrant for apprehending the defendant, and will oblige him to enter into recognizance to answer, or for want of sureties will commit him. See 1 *Chit. C. L.* 339, and the various authorities there cited.

If a defendant appear to an indictment of felony, and afterwards before issue joined make an escape either from his bail or from prison, the common *capias alias*, and *pluries*, shall be awarded against him, unless there had been an *exigent* before, in which case a new *exigent* shall be awarded. (2 *Haw. c.* 27, s. 19).

Process on an escape.

By the 3 *Edw. I. c.* 14, the *exigent* shall not be awarded against accessories until the principals shall be attainted. (2 *Haw. c.* 27, s. 130.)

Process against accessories.

By the 8 *Hen. VI. c.* 10, on indictments for treason, felony, or trespass against persons dwelling in other counties than where the indictment is taken, before any *exigent* awarded, presently after the first writ of *capias* awarded and returned, another writ of *capias* shall be awarded, directed to the sheriff of the county whereof the person indicted was supposed to be conversant by the same indictment, returnable before the same justices or others before whom he is indicted, at a certain day continuing the space of three months from the date of the said last writ, where the counties are

Process in a foreign country.

holden from month to month; and where they are holden from six weeks to six weeks he shall have four months, until the return of the same writ; by which writ of second *capias* it shall be commanded to the same sheriff to take the person indicted by his body, if he can be found within his bailiwick; and if he cannot be found within his bailiwick, that the said sheriff shall make proclamation in two counties before the return of the same writ, that he which is so indicted shall appear before the said justices or others in the county, liberty, or franchise where he is indicted, at the day contained in the said last writ of *capias*, to answer to the king of the felony, treason, or trespass, whereof he is so indicted; after which second writ of *capias* so served and returned, if he which is so indicted come not at the day of the same writ of *capias* returned, the *exigent* shall be awarded. And every *exigent* and outlawry otherwise awarded or pronounced shall be void.

And if any such indictment shall be removed by *certiorari*, then before the *exigent* awarded, presently after such first *capias* returned, another writ of *capias* shall be directed as before, returnable before the king in his bench.

But this shall not extend to indictments taken in the county of Chester.

Also, if any person be indicted of felony or treason, and at the time of the same felony or treason supposed was conversant within the county whereof the indictment maketh mention, the like process shall be made against the person so indicted, as hath formerly been used; that is, without sending process into the other county.

But every person indicted in the form aforesaid, after he is duly acquit by verdict, shall have an action upon his case, against the procurer of such indictment; and if such procurer be attainted thereof, the plaintiff shall recover treble damages. Which seemeth to be upon account of the distance at which he is supposed to live from the place where he is indicted, and consequently his extraordinary trouble in that behalf.

Dwelling in other Counties.]—If the defendant be named of B. and late of C., there is no need of any *capias* to the sheriff of the county where C. lies, because it appears that the defendant is at present conversant at B. But if a defendant be named of no certain place at present, but only late of B. and late of C. and late of D., being all of them in counties different from that wherein the prosecution is commenced, a *capias* shall go to the sheriff of every one of those counties. (2 *Haw. c.* 27, s. 126.)

Shall be void.]—Not utterly void, but only voidable by writ of error. *Id.*

County of Chester.]—But it may be awarded into the counties palatine of Lancaster and Durham; and it seems that it shall be directed to and returned by the chancellor of Lancaster or bishop of Durham; and it hath been said that, if he will not return it, the *exigent* may be awarded as well as if he had returned it; because the court (of the sessions at least) cannot compel him to return it, and the prosecution might be unreasonably delayed, if the proceedings were to be stayed till he should return it. (2 *Haw. c.* 27, s. 125; *Hale's Sum.* 209, 210.)

Mr. Marrow saith that, by the equity of this statute, if a person indicted in one county is imprisoned in another, the justices may award a *habeas corpus* to remove him before themselves. (*Lamb.* 526).

Concerning the execution of the process, it is laid down as a general rule, that wherever the king is a party to the suit (as he certainly is to all informations and indictments), the process ought to be executed by the sheriff himself, and not by the bailiff of any franchise, whether it have the clause *non omittas* or not, and whether the defendant be within a franchise or in the county at large; for the king's prerogative shall be preferred to any franchise; but it is said, that this is to be intended only where in the grant of the franchise no mention is made of causes to which the king is a party; (2 *Haw. c.* 27, s. 17;) and see further as to the execution of process, *post*, "*Warrant.*"

To be executed
by the sheriff.

Breaking open
doors.

And if the party be in a house, if the doors be shut, and the sheriff (having

given notice of his process) demand admittance, and the doors be not opened, he may break open the doors, and enter to take the offender. (2 *Hale*, 202; *Appearance*, and see, further, *post*, "*Warrant*.")

In the execution of process against any man in the case of a misdemeanor, it is necessary to demand admittance, before the breaking of the outer door of the house can be legally justified; but *quære*, if it be so in the case of felony.

Launock v. Brown, 2 B. & Ald. 592. Trespass for breaking and entering plaintiff's dwelling-house and seizing a gun. Plea, not guilty. At the trial before *Holroyd, J.*, the defendants, two of whom were constables, and the third the gamekeeper of the manor where the plaintiff resided, justified the trespass under a warrant granted by virtue of the 22 & 23 Car. II. c. 25, s. 2, which empowers gamekeepers and other persons, authorized by warrant under the hand and seal of any justice of the peace for the county, in the day-time, to search the houses of unqualified persons suspected of having in their custody guns, &c., for the purpose of destroying game, and to seize, detain, and keep the same, to and for the use of the lord of the manor, or to cut to pieces and destroy them. The plaintiff was proved to be an unqualified person, but, on the warrant being produced, several objections were taken to it as being informal. And it further appearing that the outer door of the plaintiff's house had been broken open without his having been previously requested to open it, the learned judge was of opinion that the justification was not sufficiently made out, and the plaintiff obtained a verdict. And now, on a motion for a rule to show cause why the verdict should not be set aside, and a nonsuit entered, it was contended that the defendants were justified in obeying the warrant; and that, if the warrant was informal, the proper remedy of the plaintiff was not against them, but against the magistrate who had granted it. Then, as to the other objection, that the outer door was broken open, he contended that here there appeared to have been a misdemeanor on the part of the plaintiff; and that, in the execution of criminal process, the outer door may be lawfully broken open. If a previous request be held to be necessary, it will be very inconvenient; for in many criminal cases—as, for instance, felony, it will give the party accused notice that he may make his escape.—*Abbott, C. J.* I am of opinion that, in this case, the verdict is right. It is not at present necessary for us to decide how far, in the case of a person charged with felony, it would be necessary to make a previous demand of admittance before you could justify breaking open the outer door of his house; because I am clearly of opinion that, in the case of a misdemeanor, such previous demand is requisite; and that is sufficient for the determination of the present case. It is reasonable that the law should be so; for if no previous demand is made, how is it possible for the party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost.—*Bayley, J.* The present verdict is quite right, because, even in the execution of criminal process, you must demand admittance before you can justify breaking open the outer door. That point was mentioned in the judgment of the court, in the case of *Burdett v. Abbott*, 14 East, 163. *Holroyd and Best, Js.*, concurred. Rule refused.

By the 29 Car. II. c. 7, s. 6, no person on the Lord's day shall serve or cause to be served any writ, process, or warrant, order or judgment (except in cases of treason, felony, or breach of the peace); but the service thereof shall be void, and the person serving the same shall be liable to answer damages to the party grieved, in the same manner as if he had done it without any writ, process, warrant, order, or judgment at all. (See "*Lord's Day*," Vol. III.)

It seems to be agreed that every suit, whether civil or criminal, and also every process in such suit against jurors, ought to be properly continued from day to day from its commencement to its conclusion, without any the least gap or chasm; the suffering any such gap or chasm is properly called a *discontinuance*; and the continuing the suit by improper process (as by a *capias*

1. *To compel Appearance, &c.*

Process discontinued.

1. *To compel Appearance, &c.*

Discontinuance.

instead of a *distringas*), or by giving the parties an illegal day, is properly called a *miscontinuance*; and if the justices before whom the matter is depending do not come on the day to which it is continued, it is said to be *put without day*, and cannot be revived without a re-summons on re-attachment. (2 *Haw. c. 27, s. 89, et seq.*)

Now, process may be discontinued several ways. As, 1, Where the second is not attested on the very same day on which the first is returnable. 2. Where there is a sessions intervening between the teste and the return of a *capias*, that the defendant may not be imprisoned an unreasonable time. But it is no objection to an *exigent* that it is not returnable the next sessions, because it must allow time for five county courts to be holden between its teste and return. 3. Where, after issue or demurrer, the court gives the party a day to a distant sessions, without making any continuance to that immediately following. 4. Where the sessions to which the suit is continued is adjourned, and the suit is not adjourned accordingly. 5. Where any of the parties are described in any continuance of the suit, whether on the roll, or by process by a name or addition variant from those in the original, though only in one letter. 6. Where a *venire* or *distringas* is issued, without any award on the roll to warrant them. (2 *Haw. c. 27, s. 90, et seq.*)

And it seems generally to be taken as an undoubted principle, that a discontinuance by suffering a total chasm in the proceedings, whether on the roll or in the process, by not giving a fresh continuance instantly upon the determination of the precedent, shall never be aided by any appearance of pleading over; but it is holden by the greater number of authorities that if the original be good, and the defendant present in court, he shall be compelled to answer to such original, let the process whereon he came in, or the execution of it, be never so erroneous or defective, so that it never were discontinued; for the end of process is to compel an appearance, and the end being served, and a legal charge appearing against the defendant no way discontinued, the law will not so far regard a slip in the process, as to let the defendant out of court, in order only to have him brought in again in better form. (2 *Haw. c. 27, s. 107.*)

Process stayed by putting in bail.

The processes (as well of *capias* as of outlawry) may be stayed by a *superseas* issuing from other justices (out of sessions), testifying that the party hath come before them, and hath found sureties for his appearance to answer to the indictment, or to pay his fine. (*Dalt. c. 193.*)

And it seemeth that even any one justice may bail persons indicted at the sessions for any offence under the degree of felony; for that the statutes relating specially to the power of justices in granting bail do not in this case seem to take away the power which one justice had before the making of the said statutes. (2 *Haw. c. 15, s. 54*; and see further as to bail, "*Bail*," Vol. I.)

Commitment.

As to the commitment, see "*Commitment for safe Custody*," Vol. I.

II. Of Outlawry for Non-Appearance (a).

Process of outlawry.

Judgment of outlawry is given by the coroner, at the fifth county court, upon the party's not appearing to the *exigent*, which is a writ commanding the sheriff to cause the defendant (*exigi*) to be demanded from county court to county court until he be outlawed: and such judgment is entered thus: "Therefore, by the judgment of the coroners of our lord the king of the county aforesaid, he is outlawed." (2 *Haw. c. 48, s. 21.*)

Meaning of the word outlaw.

The word outlaw (*utlaghe*), *utlagatus*, cometh not immediately from the Latin *lex*, but is derived to us through the Saxon *laga*, which signifieth law. And a person outlawed signifies one that is out of the protection of the king, and out of the aid of the law.

(a) See the law of outlawry and process fully stated in 1 *Chit. C. L.* 347 to 370.

And a man which is outlawed is called outlawed; but a woman which is outlawed is called waved, and not *utlagata*; for that women are not sworn in leets or tornes, as men at the age of twelve or more are; and therefore men may be called *utlagati*—that is, *extra legem positi*, but women are *waviatæ*—that is, *derelictæ*, left out or not regarded, because they were not sworn to the law; wherein it is to be noted, that of ancient time a man was not said to be within the law that was not sworn to the law, which is intended of the oath of allegiance in the leet. (1 *Inst.* 122.)

2. Of Outlawry.

A woman outlawed.

Hence it is that a man under the age of twelve years cannot be outlawed. (1 *Inst.* 122.)

Process of outlawry lies in all indictments of treason or felony, and on all returns of *rescous*; and also on all indictments of trespass with force and arms: and it seems probable that it lies on an indictment or conspiracy or deceit, or any other crime of a higher nature than a trespass with force and arms; but not on any indictment for a crime of an inferior nature. And it seems agreed that it lies not on any action on a statute, unless it be given by such statute, either expressly, as in the case of a *præmunire*, or impliedly, as where a recovery is given by an action wherein such process lay before, as on a writ of trespass for a forcible entry, on the 8 Hen. VI. c. 9, because the statute expressly gives a recovery by such a writ, and such process lies on it by the common law. (2 *Haw.* c. 27, s. 113.)

For what outlawry may be.

By the 31 Eliz. c. 3, in every action personal, wherein any *exigent* shall be awarded out of any court, one writ of proclamation shall be awarded out of the same court, having day of teste and return as the writ of *exigent* shall have, directed and delivered of record to the sheriff where the defendant dwells; which writ of proclamation shall contain the effect of the action; and the sheriff shall make one proclamation in the open county court, and another at the general quarter sessions where the defendant dwells, and another a month at least before the *quinto exactus*, by virtue of the said writ of *exigent*, at or near the most usual door of the church or chapel where the defendant shall be dwelling at the time of the *exigent* awarded, upon a Sunday, immediately after divine service.

Outlawry proclaimed at the sessions.

Also, by the 4 & 5 Wil. III. c. 22, s. 4, upon issuing any *exigent* out of any of the king's courts against any person for a criminal matter, before judgment or conviction, there shall also issue a writ of proclamation, bearing the same teste and return, where the person in the record of proceeding is mentioned to inhabit, according to the form of the 31 Eliz. c. 3, which writ of proclamation shall be delivered to the sheriff three months before the return of the same.

If there are two coroners in a county, or more, one may execute the writ, as in case of an *exigent*, but the return must be in the name of the coroners. (2 *Hale*, 56.)

Return of the outlawry.

And the return of the outlawry must be certain: it must show where the county court was held, and in what county; and must return the day, and year of the king, to every *exactus*. (2 *Hale*, 203.)

Also, the sheriff's name and office must be subscribed to the return of the *exigent*. (2 *Hale*, 204.)

It is said that the justices in sessions cannot issue a *capias utlagatum*, but must return the record of the outlawry into the King's Bench, and the process of *capias utlagatum* shall issue. (2 *Hale*, 52.)

Capias utlagatum.

But in *T. 10 J. 1*, the opinion of all the court of Common Pleas was, that if one be outlawed before the justices of the peace on an indictment of felony, they may award a *capias utlagatum*, and so was the opinion of *Periam*, chief baron, and all the court of Exchequer; for they that have power to award process of outlawry have also power to award a *capias utlagatum*, as incident to their authority and jurisdiction. (12 *Rep.* 103.)

If a person be outlawed at the suit of one man, all men shall take advantage of this personal disability. (1 *Inst.* 128.)

Consequences of outlawry.

But such disability abateth not the writ, but only disableth the plaintiff, until he obtain a charter of pardon. (1 *Inst.* 128.)

Upon outlawry in treason or felony, the offender shall lose and forfeit as

For treason or felony.

2. Outlawry.

For an inferior offence.

much as if he had appeared and judgment had been given against him, as long as the outlawry is in force. (2 *Haw. c.* 48, s. 22.)

But the outlawry for a misdemeanor doth not inure as a conviction for the offence, as it doth in cases of treason and felony; but as a conviction of the contempt for not answering, which contempt is therefore punished, not by fine as a conviction for the offence, but by forfeiture of goods and chattels for the contempt. (*R. v. Tippen*, 2 *Salk.* 494; see 1 *Mac. & Y.* 196; 1 *Chit. C. L.* 366.)

Goods forfeited from the time of issuing the *exigent*.

The very issuing of the *exigent*, in case of treason or felony, gives to the king the forfeiture of the goods of the party from the time of the teste of the writ of *exigent*: and the forfeiture by the *exigent* awarded stands, although the indictment be quashed, until there be a judgment of reversal on a writ of error; because the king's title, being of record, must be awarded by a record. (2 *Hale*, 204, 205.)

Lands forfeited from the time of the outlawry.

And as the award of the *exigent* gives the forfeiture of the goods, so the outlawry gives the forfeiture or loss of the lands of the party outlawed; to wit, in case of outlawry of treason, his lands are forfeited to the king, of whomsoever they are held; and, in case of outlawry of felony, to the lord by escheat of whom they are immediately holden. (2 *Hale*, 206.)

But the outlawry must be first returned.

But it must be remembered, that the bare judgment of outlawry by the coroner, without the return thereof of record, is no attainder, nor gives any escheat; but it must be returned by the sheriff, with the writ of *exigi facias*, and the return indorsed. (2 *Hale*, 206.) Or else it must be removed by *certiorari*; for the judgment given by the coroner in the county court is not matter of record, that court not being a court of record. (1 *Inst.* 288.)

And after inquisition found.

And by the outlawry all *personal* chattels are vested in the king by forfeiture; but *real* chattels, or freehold estates, are not vested in the king till after inquisition found. (*Anon.* 3 *Salk.* 262.)

Whether it is lawful to kill an outlaw.

In ancient times no man could have been outlawed but for felony, the punishment whereof was death; and upon this account an outlawed man was called *wolfeshead*, because he might be put to death by any man as a wolf, that hateful beast, might. But in the beginning of the reign of King Edward the Third, it was resolved by the judges, for avoiding of inhumanity and effusion of Christian blood, that it should not be lawful for any man but the sheriff, having lawful warrant, to put to death any man outlawed, though it were for felony; and, if he did, he shall undergo such pain of death as if he had killed any other man: and so the law continues to this day. (1 *Inst.* 28.)

Judges of assize may award execution of persons outlawed before justices of the peace.

If a man be indicted before justices of the peace, and thereupon outlawed, and is taken and committed to prison, the justices of gaol-delivery may award execution of this prisoner; for they are constituted to deliver the gaol. (4 *Inst.* 166; *Hale's Sum.* 158; 2 *Hale*, 35.)

Clergy in cases of outlawry.

Where clergy is allowable, it shall be as much allowed to one who is outlawed as to one who is convicted by verdict or confession. (2 *Haw. c.* 33, s. 27.)

But a statute taking the benefit of clergy from those who shall be found guilty doth not thereby take it from those who are outlawed. (2 *Haw. c.* 33, s. 28.)

But by the 3 & 4 Wil. III. c. 9, s. 2, if any person be indicted of any offence, for which, by any former statute, he is excluded from clergy upon conviction, if he shall be outlawed thereupon, he shall not have his clergy. (See now as to Clergy, *ante*, Vol. I. tit. "Clergy.")

By any former Statute.—Hereby it appears that this extends not to offences made felonies by statutes *subsequent* to this statute. (2 *Haw. c.* 33, s. 49.)

Persons outlawed cannot be a plaintiff.

Where a person is outlawed, the defendant may show all the matter and outlawry returned of record, and demand judgment if he shall be answered, because he is out of the law, to sue an action during the time that he is outlawed. (1 *Inst.* 128.)

Cannot be a juror.

It seems to be a good challenge of a juror, that he is outlawed either for a criminal matter, or, as some say, in a personal action; but not a principal

challenge, but only to the favour, unless the record of the outlawry be produced. (2 *Haw. c. 25, s. 16; c. 43, s. 25.*)

But it seems clear that outlawry, in a *personal* action, is not a good exception against a witness, as it is against a juror. (2 *Haw. c. 46, s. 21.*)

An outlawed person may make a will, and have executors or administrators. (*Wolley v. Bradwell, Cro. El. 575.*)

And an executor may reverse the outlawry of the testator, where he was not lawfully outlawed. (1 *Leon. 325.*)

Outlawry may be reversed several ways: as, by procuring a *supersedeas*, and delivering it to the sheriff before the *quinto exactus*; or by showing any matter apparent on record which makes the outlawry erroneous, as the want of an original; or the omission of process, or want of form in a writ of proclamation, or a return by a person appearing not to be sheriff, or a variance between the original and *exigent*, or other process, or by a misnomer or want of addition. (2 *Haw. c. 50.*)

And upon a writ of error upon an outlawry in felony, the party outlawed must render himself in custody, and pray the allowance of the writ of error in person; and if the outlawry be reversed, he shall be put to answer the indictment. (2 *Hale, 209.*)

But by the 4 & 5 Wil. III. c. 18, one outlawed, except for treason or felony, need not appear in person to reverse an outlawry, but may appear by attorney. (*Anon. 2 Salk. 496. See Volet v. Waters, 3 D. & R. 55.*)

There is another kind of process out of a court of record against offenders, called *Attachment*, which is generally for contempt; which belongs to title "Attachment," Vol. I.

3. Forms.

May be a witness.

May make a will.

Reversing outlawry.

In what case the party must appear personally to reverse it.

4 & 5 Wil. 3, c. 18.

Other kinds of process.

III. Forms.

William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of Westmoreland, greeting. We command you that you omit not, by reason of any liberty in your bailiwick, but that you cause A. O., of , in your said county, yeoman, to come before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county, committed at , in your said county, on the day of next ensuing, to answer unto us upon certain articles presented against him, the said A. O. And have you there then this precept. Witness, J. P. and K. P., at , the day of , in the year of our reign. (1.) *Venire.*

And upon this *venire*, if the defendant be returned sufficient, and maketh default, then a *distringas* shall be awarded, and so the same process infinite, until he come in; but if a *nihil habet* be returned at the first, then, after the *venire*, there shall go out a *capias*, *alias pluries*, and *exigent*. (*Dalt. Sher. 160.*)

William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of , greeting. We command you that you omit not, by reason of any liberty in your bailiwick, but that you enter the same, and distrain A. O., of , in your county, yeoman, by all his lands and tenements, &c., and that you answer for the issues thereof, &c., and that you have his body before our justices assigned [and so on as before in the venire]. (2.) *Distringas.*

But if a *nihil* (as hath been said) be returned at first upon the *venire facias*, then a *capias* shall issue, thus:—

William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of , greeting. We command you that you omit not, by reason of any

3. Forms.

liberty in your bailiwick, but that you enter the same, and take A. O., of _____, in your county, yeoman, if he shall be found in your bailiwick, and him cause to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, at _____, in your county, on the _____ day of _____ next ensuing, to answer unto us concerning divers trespasses, contempts, and offences, of which he is indicted. And have you there then this writ. Witness, J. P. and K. P., at _____, the _____ day of _____, in the _____ year of our reign.

At which day, A. S., knight, sheriff of the county aforesaid, returned that he is not found in his bailiwick, and he did not come. Therefore it is commanded as before.

Note.—The cause why the entry is made, and he did not come, is, because the party may appear voluntarily, and so avoid the attachment or arrest of his body.

(3.) The alias capias.

William the Fourth, &c. [as ante, 309, No. 1.] To the sheriff of _____ . We command you, as we before commanded you, that you omit not _____ [as before].

At which day _____ [as before], and he did not come. Therefore it is commanded to the sheriff, as it hath been often commanded, &c.

(4.) The pluries capias.

William the Fourth, &c. [as ante, 309, No. 1.] To the sheriff, &c. We command you, as we have often commanded you, that you omit not _____ [as before].

At which day, A. S. knight, the sheriff aforesaid, returned that the aforesaid A. O. is not found in his bailiwick, and he did not come. Therefore it is commanded, that you cause to be demanded, &c.

(5.) The exigent.

William the Fourth, &c. [as ante, 309, No. 1.] To the sheriff, &c. greeting. We command you that you cause A. O., of _____, in your county, [yeoman,] to be demanded, until, by the law and custom of our kingdom of England, he be outlawed, if he shall not appear; and if he shall appear, that then you take him and cause him to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in your said county committed, at the general quarter sessions of the peace of your county, next after the feast of _____ next ensuing, to be held wheresoever in the same county the said sessions shall happen to be holden, to answer unto us of divers trespasses, contempts, and offences, of which he is indicted. And have you then there this writ. Witness, Sir J. P., Baronet, at _____, in the said county, the _____ day of _____, in the _____ year of our reign.

At which day, A. S., Knight, sheriff of the county aforesaid, returned that at this county court holden at _____, the _____ day of _____, in the _____ year of the reign of our lord the king that now is, and so at four other county courts then next following there holden, the aforesaid A. O. was demanded, and did not appear. Therefore, by the judgment of the coroner of our said lord the king, in the county aforesaid, he was outlawed.

(6.) The capias utlagatum.

William the Fourth, &c. [as ante, 309, No. 1.] To the sheriff, &c. greeting. We command you that you omit not, by reason of any liberty in your county, but that you take A. O., late of _____, in your county, labourer, if he shall be found within your county, and him cause safely to be kept, so that you have his body before the keepers of our peace and our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors, in your county committed, at _____, the _____ day of _____, to stand right in our court before our justices aforesaid, upon a certain outlawry against him, the said A. O., promulgated, at our suit, for certain felonies [or, trespasses] whereof he is indicted. And have you then there this writ. Witness, &c.

Proclamation, *Proof of, ante*, Vol. II. p. 44. *Under Riots, post*, Riot.

Profaneness. See "Blasphemy," Vol. I.

Procurer. See "Accessory," "Attempts," Vol. I.

Promissory Notes.

BY the 15 Geo. III. c. 51, various provisions were made to restrain the negotiation of promissory notes and inland bills of exchange, under a limited sum, in England; but doubts have arisen as to the power of justices of the peace to hear and determine offences under that act.

By the 48 Geo. III. c. 88, s. 1, the said act of 15 Geo. III. is repealed, and by sect. 2, it is enacted, "that all promissory or other notes, bills of exchange, or drafts, or undertakings in writing, being negotiable or transferable for the payment of any sum or sums of money, or any orders, notes, or undertakings in writing, being negotiable or transferable for the delivery of any goods, specifying their value in money, less than the sum of 20s. in the whole, heretofore made or issued, or which shall hereafter be made or issued, shall, from and after the first day of October, 1808, be and the same are hereby declared to be absolutely void and of no effect; any law, statute, usage, or custom, to the contrary thereof in anywise notwithstanding." Promissory notes for less than 20s. declared void.

Sect. 3. "If any person or persons shall, after the first day of July, 1808, by any art, device, or means whatsoever, publish or utter any such notes, bills, drafts, or engagements as aforesaid, for a less sum than 20s., or on which less than the sum of 20s. shall be due, and which shall be in anywise negotiable or transferable, or shall negotiate or transfer the same, every such person shall forfeit and pay, for every such offence, any sum not exceeding 20*l.*, nor less than 5*l.*, at the discretion of the justice of the peace who shall hear and determine such offence." Penalty on persons uttering such notes, 20*l.* to 5*l.*

Sect. 4. "It shall be lawful for any justice or justices of the peace, acting for the county, riding, city, or place, within which any offence against this act shall be committed, to hear and determine the same in a summary way, at any time within twenty days after such offence shall have been committed; and such justice or justices, upon any information exhibited or complaint made upon oath in that behalf, shall summon the party accused, and also the witnesses on either side, and shall examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party, or by the oath of one or more credible witness or witnesses, or otherwise, (which oath such justice or justices is or are hereby authorized to administer,) shall convict the offender, and adjudge the penalty for such offence." Justices may determine on such offences within twenty days.

Sect. 5. "If any person shall be summoned as a witness to give evidence before such justice or justices, either on the part of the prosecutor or the person accused, and shall neglect or refuse to appear at the time or place to be for that purpose appointed, without a reasonable excuse for such his neglect or refusal, to be allowed by such justice or justices, then such person shall forfeit, for every such offence, the sum of 40s., to be levied and paid in such manner and by such means as are directed for recovery of other penalties under this act." Penalty on witnesses not attending, 40s.

Sect. 6. "That the justice or justices before whom any offender shall be

48 Geo. 3, c. 88.

convicted as aforesaid, shall cause the said conviction to be made out, in the manner and form following; (that is to say,)

Form of conviction.

"Be it remembered, that on the day of , in the year of our Lord , A. B., having appeared before me [or, us], one [or more] of his majesty's justices of the peace [as the case may be] for the county, riding, city, or place [as the case may be], and due proof having been made upon oath by one or more credible witness or witnesses, or by confession of the party [as the case may be], is convicted of [specifying the offence]. Given under my hand and seal [or, our hands and seals], the day and year aforesaid."

Returnable to the quarter sessions.

Which conviction the said justice or justices shall cause to be returned to the then next general quarter sessions of the peace of the county, riding, city, or place, where such conviction was made, to be filed by the clerk of the peace, to remain and be kept among the records of such county, riding, city, or place."

Copies of convictions.

Sect. 7. "It shall be lawful for any clerk of the peace for any county, riding, city, or place, and he is hereby required, upon application made to him by any person or persons for that purpose, to cause a copy or copies of any conviction or convictions filed by him under the directions of this act, to be forthwith delivered to such person or persons upon payment of one shilling for every such copy."

Recovery and application of penalties.

Sect. 8. "The pecuniary penalties and forfeitures hereby incurred and made payable upon any conviction against this act, shall be forthwith paid by the person convicted, as follows: one moiety of the forfeiture to the informer, and the other moiety to the poor of the parish or place where the offence shall be committed; and in case such person shall refuse or neglect to pay the same, or to give sufficient security to the satisfaction of such justice or justices to prosecute any appeal against such conviction, such justice or justices shall, by warrant, under his or their hand and seal, or hands and seals, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale, returning the overplus (if any) to the owner; and which said warrant of distress the said justice or justices shall cause to be made out in the manner and form following; (that is to say,)

Form of warrant of distress.

"To the Constable, Headborough, or Tithingman of .

"Whereas A. B., of , in the county of , is this day convicted before me [or, us] one [or more] of his majesty's justices of the peace [as the case may be] for the county of , [or, for the riding of the county of York, or for the town, liberty, or district of , as the case may be] upon the oath of , or , a credible witness or witnesses [or, by confession of the party, as the case may be], for that the said A. B. hath [here set forth the offence], contrary to the statute in that case made and provided, by reason whereof the said A. B. hath forfeited the sum of , to be distributed as herein is mentioned, which he hath refused to pay: these are, therefore, in his majesty's name, to command you to levy the said sum of by distress of the goods and chattels of him the said A. B.; and if within the space of five days next after such distress by you taken, the said sum, together with the reasonable charges of taking the same, shall not be paid, then that you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you do pay one-half of the said sum of to , of , who informed me [or, us, as the case shall be] of the said offence, and the other half of the said sum of to the overseer of the poor of the parish, township, or place where the offence was committed, to be employed for the benefit of such poor, returning the overplus [if any] upon demand to the said A. B., the reasonable charges of taking, keeping, and selling the said distress being first deducted; and if sufficient distress cannot be found of the goods and chattels of the said A. B. whereon to levy the said sum of , that then you certify the same to me [or, us, as the case shall be], together with this warrant. Given under my hand and seal [or, our hands and seals], the day of , in the year of our Lord ."

Security for appearance of party,

Sect. 9. "It shall be lawful for such justice or justices to order such offender to be detained in safe custody until return may conveniently be had

and made to such warrant of distress, unless the party so convicted shall give sufficient security, to the satisfaction of such justice or justices, for his appearance before the said justice or justices on such day as shall be appointed by the said justice or justices for the day of the return of the said warrant of distress (such day not exceeding five days from the taking of such security); which security the said justice or justices is and are hereby empowered to take by way of recognizance or otherwise."

48 Geo. 3. c. 88.
on return of such warrants.

Sect. 10. "If, upon such return, no sufficient distress can be had, then, and in such case, the said justice or justices shall and may commit such offender to the common gaol or house of correction of the county, riding, division, or place where the offence shall be committed, for the space of three calendar months, unless the money forfeited shall be sooner paid, or unless or until such offender, thinking him or herself aggrieved by such conviction, shall give notice to the informer that he or she intends to appeal to the justices of the peace at the next general quarter sessions of the peace to be holden for the county, riding, or place wherein the offence shall be committed, and shall enter into recognizance before some justice or justices, with two sufficient sureties conditioned to try such appeal, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions (which notice of appeal, being not less than eight days before the trial thereof, such person so aggrieved is hereby empowered to give); and the said justices at such sessions, upon due proof of such notice being given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against, as they the said justices shall think proper; and the determination of such quarter session shall be final, binding, and conclusive to all intents and purposes."

Offenders may be committed for want of distress.

Sect. 11. "No person shall be disabled from being a witness in any prosecution for any offence against this act, by reason of his being an inhabitant of the parish wherein such offence was committed."

Parishioners may be witnesses.

Sect. 12. "No proceedings to be had, touching the conviction or convictions of any offender or offenders against this act, shall be quashed for want of form, or be removed by writ of *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

Convictions not removable by *certiorari*.

Sect. 13. "If any action or suit shall be commenced against any person or persons for any thing done or acted in pursuance of this act, then and in every such case such action or suit shall be commenced or prosecuted within three calendar months after the fact committed, and not afterwards; and the same and every such action or suit shall be brought within the county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought or laid in any other place than as aforementioned, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for the recovery thereof as any defendant or defendants hath or have in any other cases by law."

Limitation of actions.

Venue.

Treble costs.

By the 17 Geo. III. c. 30, all promissory or other notes, bills of exchange, or drafts, or undertakings in writing, being negotiable or transferable, for the payment of 20s. or above that sum, and less than 5*l.*, on which 20s. or above, and less than 5*l.*, shall remain undischarged, shall (1) specify the names and places of abode of the persons respectively to whom, or to whose order, the same shall be made payable; and (2) shall bear date before or at

Promissory notes, &c. of 20*s.* and under 5*l.*

17 Geo. 3, c. 30.

Power of the justices.

the time of drawing or issuing thereof, but not on any day subsequent thereto; and (3) shall be made payable within twenty-one days next after the day of the date thereof; and shall not be transferable or negotiable after the time thereby limited for payment; and (4) every indorsement thereon shall be made before the expiration of that time, and shall bear date at or not before the time of making thereof, and shall specify the name and place of abode of the person to whom or to whose order the money is to be paid; otherwise such note, bill, draft, or undertaking shall be void.

And by the 37 Geo. III. c. 32, s. 3, if the person liable to pay the same shall fail to make full payment in money of the sum therein mentioned, or any part thereof [for seven days, 37 Geo. III. c. 61, s. 2], after demand by the holder, one justice, on complaint by such holder, may summon such person refusing to pay; and on his appearance, or in default, on proof on oath of such summons having been duly served, may hear and determine the same, and may award such sum to be paid, together with the costs, not exceeding 20s., as to him shall seem meet; and if not paid upon demand, may levy the same by distress, together with all costs attending such distress.

Which notes, bills, drafts, or undertakings and indorsements, may be in the form or to the effect following:

[Place, day, month, year.] *Twenty-one days after date, I promise to pay to*
A. B. of , *or his order, the sum of* *for value received by*
Witness, *C. D.*
E. F.

Indorsement toties quoties.

[Place, day, month, year.] *Pay the contents to G. H., of* , *or his order.*
Witness, *A. B.*
J. K.

If it is upon advice, say, *Twenty-one days after date, pay to A. B., of* ,
or his order, the sum of , *value received, as advised by*
C. D.

The publishing, uttering, or negotiating notes, bills of exchange, drafts, or undertakings, contrary to this act, is prohibited and restrained under the like penalties as for offences against the former act; so that the impracticability of recovering the said penalties is alike in both cases.

The 55 Geo. III. c. 184, points out the duties payable on promissory notes and bills. The stamp laws are about to be amended and consolidated under a new enactment.

Prophecies.

5 Eliz. c. 15.

BY the 5 Eliz. c. 15, if any person shall advisedly and directly advance, publish, and set forth by writing, printing, signing, or any other open speech or deed, any fond, fantastical, or false prophecy, upon or by the occasion of any arms, fields, beasts, badges, or such other like things accustomed in arms, cognizances, or signets, or upon or by reason of any time, year, or day, name, bloodshed, or war, to the intent thereby to make any rebellion, insurrection, dissension, loss of life, or other disturbance in the realm; and shall be convicted thereof before a judge of assize, or justice of the peace, within six months after the offence committed, he shall for the first offence be imprisoned for a year, and forfeit 10*l.*; and for the second offence shall be imprisoned for life, and forfeit his goods: half the forfeitures to the king, and half to him who shall sue for them in any court of record.

The intent of this act was, to abolish certain foolish and superstitious notions which prevailed in the times of ignorance, as were set forth in a statute made in the 33 Hen. VIII. c. 14, reciting—Whereas divers and sundry persons, making their foundation by prophecies, have taken upon them a knowledge (as it were) what shall become of them which bear in

their arms, cognizance, or badge, fields, beasts, fowls, or any other thing which hath been used or accustomed to be put in any of the same, or in and upon the letters of their names, have devised, descanted, and practised, to make folk think, that by their untrue guesses it might be known what good or evil things should come, happen, or be done, by or to such persons as bore or had such badges or cognizances, or had such letters in their names, to the great terror and destruction of such noble personages, of whom such false prophecies have or should hereafter set forth, whereby, in times past, many noblemen have suffered, and (if their prince would give any ear thereto) might hap to do hereafter; and therefore enacted, that he who should do so, should be guilty of felony without benefit of clergy.

This statute was wholly repealed by the 1 Edw. VI. c. 12, which repealed all statutes making any offences felony, from the first year of the reign of King Henry the Eighth. And the substance thereof was re-enacted, with a mitigation of the penalty, by the 3 & 4 Edw. VI. c. 15. Which statute expiring, the 5 Eliz. c. 15, was enacted as above.

Prosecutor. See "**Indictment**," Vol. III.; "**Evidence**," Vol. II.

Protestant Dissenters. See "**Dissenters**," Vol. I.

Prout Patet per Recordum. See "**Indictment**," Vol. III.

Proviso in a Statute, Statement of in an Indictment—See "**Indictment**," Vol. III. **In Conviction**—See "**Conviction**," Vol. I.

Public Worship.

AS to the profanation of Churches in general, see "**Church**," Vol. I.

Arresting Clergymen attending Service, see *ibid.*

Holding Fairs, &c., in Churches, *ibid.*

Brawling in, *ibid.*

Striking in, *ibid.*

Not going to Church, see "**Lord's Day**," Vol. III.

Travelling, Baking, Exercising Trades, &c., Killing Game, and Serving Process on Sunday, see *ibid.*

Impugning the Common Prayer and Public Worship, see "**Common Prayer**," Vol. I.

Disturbing Congregations in Churches, see "**Common Prayer**," Vol. I., "**Dissenters**," Vol. I.

See also, title "**Dissenters**," Vol. I.; "**Popery**," *ante*, p. 255.

Public-House. See "Alchouse," Vol. I.

Publication of Libel. See "Libel," Vol. III.

Punishment. See "Felony;" "Fine," Vol. II.; "Hard-Labour;" "Imprisonment;" "Misdemeanor," Vol. III.; "Pillory," *ante*, p. 194; "Transportation," *post*; "Whipping," *post*; and see in general "Judgment," Vol. III.

Purveyors.

Abuses of purveyors.

ANCIENTLY, the king's court was supplied with necessaries from the ancient demesnes of the crown; and in respect thereof the tenants of those lands had many privileges, which they still enjoy: but this method, being found to be troublesome and inconvenient, was by degrees disused; and, afterwards, the king was wont to appoint certain officers to buy in provisions for his household, who were called purveyors, and claimed many privileges by the prerogative of the crown. (2 *Inst.* 542; 1 *Haw. c.* 47, s. 1.)

Purveyance taken away.

The several laws which restrained the exorbitance of these purveyors made up a pretty large title in the old books; but these laws proving ineffectual to remedy the evil complained of, at length by the 12 *Car. II. c.* 24, purveyance was entirely taken away; by which it is enacted, that no sum of money, or other thing, shall be taken for any provision, carriages, or purveyances for the king.

And that no person, under colour of purveyance, shall take any timber, fuel, cattle, corn, grain, malt, hay, straw, victual, cart, carriage, or other thing, without consent of the owner; nor shall require any to furnish any horses, oxen, or other cattle, carts, ploughs, wains, or other carriages, for the use of the king or his household, without the owner's consent.

On pain of being committed to gaol by a justice of the peace, and the constable, until the next sessions, to be there indicted; and also of paying to the party treble damages and treble costs on an action at law.

Quaker. See "Evidence," Vol. II. p. 104.

Quarantine. "See *ante*, "Plague."

Quarter Sessions. See "Sessions," *post*.

Quashing Indictments, &c. See "Indictment;" "Information," Vol. III.; "Certiorari," Vol. I.

Quay, Stealing from. See "Larceny," Vol. III.

Quorum, Meaning of. See "Justices," Vol. III.

Quo Warranto.

A Writ of Quo warranto is in the nature of a writ of right for the king, against him who claims or usurps any office, franchise, or liberty, to inquire by *what authority* (*quo warranto*) he supports his claim, in order to determine the right. (*Finch. Law*, 322; 2 *Inst.* 282.)

It lies also, in case of nonuser (or long neglect of a franchise), or misuser (or abuse of it), being a writ commanding the defendant to show by what warrant he exercises such a franchise, having never had any grant of it, or having forfeited it by neglect or abuse. (3 *Bla. Com.* 263.)

The court will not grant a quo warranto information against persons for usurping a franchise of a mere private nature, not connected with public government. (*R. v. Ogden*, 10 *B. & Cres.* 230.)

This writ, being more in the nature of a *civil* than a criminal proceeding, is not here further noticed. (See *Tidd's Pract.* 9 ed.; *Com. Dig. Quo Warranto*; 3 *Bla. Com.* 263.)

Rabbits. See "Game," Vol. II.

Rape.

I. *What it is, and Punishment for*, 317.

II. *Evidence on an Indictment of Rape*, 318.

III. *Principal and Accessory*, 321.

IV. *Forms*, 321.

As to Assaults with intent to commit a Rape, see "Assault," Vol. I. p. 289.

I. What it is.

RAPE is, when a man hath carnal knowledge of a woman by force, and against her will. (2 *Inst.* 180; 1 *Haw. c.* 41, s. 1.) Rape, what.

To constitute the offence there must be a penetration. (*R. v. Hill*, 1 *East*, *P. C.* 439.) It was held, in *Russen's case*, 1 *East's P. C.* 438; 1 *Russell*, 803, that the *least degree of penetration* was sufficient, though not attended with the deprivation of the marks of virginity. In that case it was proved, that the parts of the injured party were so narrow, that a finger could not be introduced, and that the hymen was whole and unbroken; and yet this was held a sufficient penetration to constitute the offence (emission having also been proved, which was necessary as the law stood at that time.) (See *R. v. Hodgson*, and *R. v. Clarke*, "Buggery," Vol. I.) But where it appeared that the hymen was not ruptured, *Gurney, B.*, held that the penetration was not sufficient to constitute the offence. (*R. v. Gammon*, 5 *Car. & P.* 321.) Penetration.

Before the 9 Geo. IV. c. 31, s. 18, it was necessary to prove emission, which might be proved either positively, by the evidence of the woman that she felt it; or, it might be presumed from circumstances, as, for instance, that the defendant, after having connexion with the prosecutrix, arose from her Emission.

1. *What it is, and Punishment for.*

voluntarily, without being interrupted in the act. (*R. v. Harmwood*, 1 *East*, P. C. 440; *R. v. Sheridan*, 1 *East*, P. C. 438; *R. v. Burrows*, R. & R. 519.)

But now by that act, s. 18, reciting "And whereas, upon trials for the crimes of buggery, and of rape, and of carnally abusing girls under the respective ages hereinbefore mentioned, offenders frequently escape by reason of the difficulty of the proof which has been required of the completion of those several crimes;" for remedy thereof it is enacted, "that it shall not be necessary, in any of those cases, to prove the actual emission of seed in order to constitute a carnal knowledge, but that the carnal knowledge shall be deemed complete upon proof of penetration only."

Youths under fourteen.

A boy under the age of fourteen years is presumed by law incapable to commit a rape. (1 *Hale*, 631.)

Wife.

A husband cannot be guilty of a rape upon his wife. (*Id.* 629.)

But, in both these cases, they may be principals in the second degree, and punished for being present, aiding and abetting. (*Id.* 629, 630; *Lord Audley's case*, 3 *How. St. Tr.* 419.)

Using deceit.

Having carnal knowledge of a married woman under circumstances which induce her to suppose it is her husband, is not a rape. (*R. v. Jackson*, R. & R. C. C. 487.)

Consenting at last.

The offence of a rape is no way mitigated by showing that the woman at last yielded to the violence, if such her consent were forced by fear of death or of duress. (1 *Haw. c.* 41, s. 2.)

Ravishing a common strumpet.

Also, it is not a sufficient excuse in the ravisher to prove that the woman is a common strumpet; for she is still under the protection of the law, and may not be forced. (1 *Haw. c.* 41, s. 2.)

Consenting after the fact.

Nor is it any excuse that the woman consented after the fact. (1 *Haw. c.* 41, s. 2.)

Woman ravished conceiving.

It is said by Mr. *Dalton* (c. 160), that if a woman, at the time of the supposed rape, do conceive with child by the ravisher, this is no rape: "for (he says) a woman cannot conceive except she doth consent." But Mr. *Hawkins* observes, that this opinion seems very questionable; not only because the previous violence is no way extenuated by such a subsequent consent, but also because, if it were necessary to show that the woman did not conceive, the offender could not be tried till such time as it might appear whether she did or not; and likewise because the philosophy of this notion may be very well doubted of. (1 *Haw. c.* 41, s. 9.) And *Lord Hale* says, this opinion in *Dalton* seems to be no law. (1 *Hale*, 631.)

Punishment of.

By 9 Geo. IV. c. 31, s. 16, "every person convicted of the crime of rape shall suffer death as a felon." By the 4 Geo. IV. c. 48, this sentence may be recorded.

Carnal knowledge of children.

Sect. 17. "If any person shall unlawfully and carnally know and abuse any girl under the age of ten years, every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon. And if any person shall unlawfully and carnally know and abuse any girl, being above the age of ten years, and under the age of twelve years, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned, with or without hard labour, in the common gaol or house of correction, for such term as the court shall award. See further, "*Children*," Vol. I.

See the general clauses of this act, "*Malicious Injuries to Persons*," Vol. III.

II. Evidence on an Indictment of Rape.

Evidence.

We have already seen as to what will constitute the offence, and the proofs must be adduced accordingly.

The woman's oath.

The party ravished may give evidence on oath, and is in law a competent witness; but the credibility of her testimony, and how far forth she is to be believed, must be left to the jury, and is more or less credible according to the circumstances of fact that concur in that testimony. (1 *Hale*, 633.)

For instance: if the witness be of good fame; if she presently discovered the offence, and made pursuit after the offender; have shown circumstances and signs of the injury, whereof many are of that nature that only women are the most proper examiners and inspectors; if the place wherein the fact was done were remote from people, inhabitants, or passengers; if the offender fled for it. These and the like are concurring evidences to give greater probability to her testimony, when proved by others as well as herself. (*Id.*)

2. Evidence of.

Circumstances in favour of it.

But, on the other side, if she concealed the injury for any considerable time after she had opportunity to complain; if the place where the fact was supposed to be committed were near to inhabitants, or common recourse or passage of passengers, and she made no outcry when the fact was supposed to be done, when and where, it is probable, she might be heard by others; or if a man prove himself to be in another place, or in other company, at the time she charges him with the fact; or if she be wrong in the description of the place; or swear the fact to be done in a place where it was impossible the man could have access to her at that time, as if the room were locked up, and the key in the custody of another person; these and the like circumstances carry a strong presumption that her testimony is false or feigned. (*Id.*)

Circumstances in disfavour of it.

The defendant may give evidence of the woman's notoriously bad character for want of chastity or common decency, or that she had before been connected with the prisoner himself; but he cannot give evidence of any other particular facts to impeach her chastity. (*R. v. Hodgson*, 1 *Phil. Ev.* 190; *R. v. Clarke*, 2 *Stark.* 243.) So, what she herself said so recently after the fact as to preclude the possibility of her being practised on, has been holden to be admissible in evidence as a part of the transaction; but the particulars of her complaint are not evidence of the truth of her statement. (*R. v. Brazier*, 1 *East's P. C.* 444; *R. v. Clarke*, 2 *Stark.* 241.) The woman, however, is not compellable to answer whether she has not had connexion with other men, or with a particular person named; nor is evidence of her having had such connexion admissible. (*R. v. Hodgson*, *R. & R.* 211; *Arch. C. L.* 287.) In a late case on the trial of an indictment for a rape, it was held that the prisoner's counsel might ask the prosecutrix the following questions, with a view to contradict her: "Were you not, on, &c. (since the time of the alleged offence), walking in the High Street at Oxford to look out for men?" "Were you not, on, &c. (since the time of the alleged offence), walking in High Street with a woman reputed to be a common prostitute?" It was also held, that evidence might be adduced by the prisoner to show the general light character of the prosecutrix, and that general evidence might be given of her being a street-walker; but *semble*, that evidence of specific acts of criminality by her would not be admissible. (*R. v. Barker*, 3 *C. & P.* 589.)

Bad character of woman.

It has been made a doubt, at different periods in the history of our courts of law, at what particular age an infant could be sworn to prove a rape, or an assault with intent to ravish her; and at one time a rule appears to have prevailed, that no child could be admitted as a witness under the age of nine years, and very few under ten. (*R. v. Travers*, 1 *Str.* 700; *R. v. Dannel*, 1 *East's P. C.* 442.) But it appears now to be well established, that a child of any age, if capable of distinguishing between good and evil, may be examined upon oath; but that, whatever may be its age, it cannot be examined unless sworn. (*Brazier's case*, *Reading Sp. Ass.* 1779; 1 *East's P. C.* 443, 444.) By such capability of distinguishing between good and evil, must be understood a belief in God, or in a future state of rewards and punishments; from which the court may be satisfied that the witness entertains a proper sense of the danger and impiety of falsehood. (*White's case*, 1 *Leach*, 430.) See title "Infant," Vol. III.

Infant a witness.

It appears to have been allowed, that the fact of the child's having complained of the injury recently after it was received, is confirmatory evidence; but where the child is not fit to be sworn, it is clear that any account which it may have given to others ought not to be received. (1 *Russ.* 812, citing

2. *Evidence of. Brazier's case, supra.* See 1 *Phil. Ev.* 19, 222, 6 ed.) Thus, on an indictment for a rape on a child of five years of age, where the child was not examined, but an account of what she had told her mother about three weeks after the transaction was given in evidence by the mother, and the jury convicted the prisoner, principally, as was supposed, on that evidence, the judges, on a case reserved for their opinion, thought the evidence clearly inadmissible; and the prisoner was accordingly pardoned. (*Tucker's case, Exeter Spr. Ass.* 1808, cor. *Marshall, Serjt.*; *MS. C. C. R.*; 5 *Burn's J.*, 24 ed. 3; ante, "*Infant*," Vol. III.)

When the child has appeared not sufficiently to understand the nature and obligation of an oath, judges have often thought it necessary for the purposes of justices, to put off the trial of a prisoner, directing that the child in the meantime should be properly instructed. Thus, in a criminal prosecution that was coming on to be tried before *Rooke, J.*, at Gloucester, finding that the principal witness was an infant, who was wholly incompetent to take an oath, he postponed the trial till the following assizes, and ordered the child to be instructed in the meantime by a clergyman in the principles of her duty, and the nature and obligation of an oath. At the next assizes the prisoner was put upon his trial, and the girl being found by the court, on examination, to have a proper sense of the nature of an oath, was sworn, and upon her testimony the prisoner was convicted, and afterwards executed. Mr. J. *Rooke* mentioned this at the Old Bailey in 1795, in the case of *Patrick Murphey*, who was indicted for a rape on a child of seven years old; and the learned judge added, that upon a conference with the other judges, upon his return from the circuit, they unanimously approved of what he had done. (*Vide 2 Bac. Abr.* 577 (n.); 1 *Leach*, 430 (n.)

In a case where the party ravished had died before the trial, her deposition, corroborated by other evidence of actual force and penetration, was held sufficient to warrant a conviction, though there did not appear to be any direct evidence of emission. It was left to the jury to determine whether the crime had been completed by penetration and emission; and they were directed that they might collect the fact of emission from the evidence, though the unfortunate girl was dead, and could not therefore give any further account of the transaction, than that which was contained in her deposition before the magistrates. (*R. v. Fleming and Windham*, 2 *Leach*, 854.)

Where the evidence of children is admitted, it is much to be wished, in order to render their evidence credible, that there should be some concurrent testimony of time, place, and circumstances, in order to make out the fact; and that the conviction should not be granted singly on the unsupported accusation of an infant under years of discretion. There may be, therefore, in many cases of this nature, witnesses who are competent,—that is, who may be admitted to be heard; and yet, after being heard, may prove not to be credible, or such as the jury is bound to believe. For one excellence of the trial by jury is, that the jury are triers of the credit of the witnesses as well as of the truth of the fact. (4 *Bla. Com.* 214; 1 *Phil. Ev.* 19, 6 ed.)

Wife.

The party grieved is so much considered as a witness of necessity in this as in other personal injuries, that if one assist another man to ravish his own wife, she is admissible as a witness against him. (*Lord Audley's case*, 3 *Howell's St. Tr.* 419, cited in 1 *East's P. C.* 444.)

General caution.

"It is true," says Lord *Hale*, "that rape is a most detestable crime, and therefore ought severely and impartially to be punished with death; but it must be remembered, it is an accusation easily to be made, and hard to be proved, and harder to be defended by the party accused, though never so innocent." He then mentions two remarkable cases of malicious prosecutions for this crime, that had come within his knowledge; and concludes, "I mention these instances that we may be more cautious upon trials of offences of this nature, wherein the court and jury may, with so much ease, be imposed upon, without great care and vigilance; the heinousness of the offence many times transporting the judge and jury with so much indig-

nation, that they are over-hastily carried to the conviction of the person accused thereof, by the confident testimony, sometimes, of malicious and false witnesses." (1 *Hale*, 635, 636; 4 *Bla. Com.* 214.)

3. *Principal & Accessary.*

III. Principal and Accessary.

Mr. *Hawkins* says, all who are present, and actually assist a man to commit a rape, may be indicted as principal offenders, whether they be men or women. (1 *Haw. c.* 41, s. 6.)

So one woman may be a principal to the ravishment of another. In *R. v. Burgess and others*, *Chester Spr. Ass.* 1813, upon an indictment charging three persons jointly with the commission of a rape, an objection was taken that three persons could not be guilty of the same joint act; but it was overruled, upon the ground that the legal construction of the averment was only that they had done such acts as subjected them to be punished as principals in the offence. The execution was, however, respited, probably with a view to enable the learned judges to consult other authorities on the accuracy of their opinion: but the prisoners were afterwards executed. (5 *Ev. Col. Stat. Cl.* 6, p. 244, note (17), 2 ed.; and see 1 *Russ.* 801.)

A general conviction of a prisoner, charged both as principal in the first degree and as an aider and abettor of other men in rape, is valid, on the count charging him as principal. And on such an indictment evidence may be given of several rapes on the same woman, at the same time, by the prisoner and other men, each assisting the other in turn, without putting the prosecutor to elect on which count to proceed. (*R. v. Folkes*, *R. & M. C. C.* 354. And see *R. v. Gray*, 7 *C. & P.* 164.)

See the general clause of the 9 Geo. IV. c. 31, as to accessories; "*Malicious Injuries to Persons*," Vol. III.

See further "*Accessory*," Vol. I.

IV. Forms.

County of } To the constable of , and to all other constables and peace-officers in and for the said county of (1.) Warrant for a rape.
Forasmuch as A. S., of , in the said county, [single woman,] hath this day made information and complaint upon oath before me, G. C., Esq., one of his majesty's justices of the peace in and for the said county, that A. R., of , in the said county, [labourer,] on the day of , instant, at , in the said county, did violently and feloniously make an assault upon her, the said A. S., and her the said A. S., then and there, violently and against her will, did ravish and carnally know: these are therefore to command you, in his majesty's name, forthwith to apprehend and bring before me, or some other of his majesty's justices of the peace in and for the said county, the body of the said A. R., to answer unto the said complaint, and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, the day of , in the year of our Lord .

Commencement as usual, as ante, p. 175. (No. 1.) on, &c., at, &c., violently and feloniously did assault one C. D., and her, the said C. D., then and there, violently, and against her will, feloniously did ravish and carnally know; against the form of the statute in that case made and provided. And you the said keeper, &c., [as usual, as ante, p. 175, (No. 1.) to the end]. (2) Commitment for a rape.

(venue). The jurors of our lord the king upon their oath present, that A. O., late of , in the county of , [yeoman,] on the day of , in the year of the reign of our lord the now king Wil- (3) Indictment for a rape.

4. Forms.

liam the Fourth, with force and arms, at _____, in the county aforesaid, in and upon one A. I., in the peace of God and of our said lord the king, then and there being, violently and feloniously did make an assault, and her, the said A. I., violently and against the will of her, the said A. I., then and there feloniously did ravish and carnally know; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity.

Receipts. See title "Stamps," post.

Receivers of Stolen Goods, &c. See "Accessary," Vol. I. p. 35 to 39.

Recognizance.

See "Fines," Vol. II.

- I. What and when, and of whom may be required, p. 322.
- II. Refusing to enter into, p. 324.
- III. Form, &c. of, p. 324.
- IV. Forfeiture, Estreat, Discharge, and Respite of, p. 325.
- V. Forms, p. 325.

I. What, and when may be required.

What it is.

RECOGNIZANCE is a bond of record, testifying the recognizor to owe a certain sum of money to some other; and the acknowledging of the same is to remain of record; and none can take it but only a judge or officer of record. (*Dalt. c. 186; 2 Bla. Com. 341.*)

In what cases it may be taken.

These recognizances, in some cases, the justices of the peace are enabled to take by the express words of certain statutes; but in other cases (as for the peace and good behaviour, and the like), it is rather in congruity, and by reasonable intendment of law, than by any express authority given them, either by their commission, or by the statute law. (*Crom. 125; Dalt. c. 168.*)

Wheresoever any statute giveth them power to take a bond of any man, or to bind over any man to appear at the assizes or sessions, or to take sureties for any matter or cause, they may take a recognizance. Yea, wheresoever they have authority given them to cause a man to do a thing, there it seemeth they have, in congruity, power given them to bind the party by recognizance to do it; and if the party shall refuse to be bound, the justice may send him to gaol. (*Dalt. c. 168.*)

But he can take no recognizance but only of such matters as concern his office; and if he doth, it seemeth to be void. (*Dalt. c. 168.*)

Recognizance to prosecute and give evidence in felonies.

As regards the power and duty of justices to bind by recognizances to prosecute or give evidence in felonies, the 7 Geo. IV. c. 64, s. 2, reciting the expediency of amending and extending the provisions of the 1 & 2 P. & M. c. 13, and 2 & 3 P. & M. c. 10, enacts, "that the two justices of the peace, before they shall admit to bail, and the justice or justices, before he or they shall commit to prison, any person arrested for felony, or on suspicion of felony, shall take the examination of such person, and the information upon

oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing; and the two justices shall certify such bailment in writing; and every such justice shall have authority to bind by recognizance all such persons as know or declare any thing material touching any such felony or suspicion of felony, to appear at the next court of oyer and terminer, or gaol delivery, or superior criminal court of a county palatine, or great sessions * or sessions of the peace, at which the trial thereof is intended to be, then and there to prosecute or give evidence against the party accused; and such justices and justice respectively shall subscribe all such examinations, informations, bailments, and recognizances, and deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court." See "**Examination**," Vol. II. This statute wholly repeals the 1 & 2 P. & M. c. 13, and 2 & 3 P. & M. c. 10.

1. *What, and when may be required.*

Power to justices.

* *Sic.*
Recognizances, &c. to be certified, &c.

The fourth section of the 7 Geo. IV. c. 64, empowers coroners on inquests to bind by recognizance witnesses to appear, &c. in cases of manslaughter or murder, or accessory to murder. See "**Coroner**," Vol. I.

Coroners.

As regards the power and duty of justices to bind by recognizances to prosecute or give evidence in *misdemeanors*, the 7 Geo. IV. c. 64, s. 3, enacts, "that every justice of the peace before whom any person shall be taken on a charge of misdemeanor, or suspicion thereof, shall take the examination of the person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, before he shall commit to prison, or require bail from the person so charged; and, in every case of bailment shall certify the bailment in writing; and shall have authority to bind all persons by recognizance to appear to prosecute or give evidence against the party accused, in like manner as in cases of felony; and shall subscribe all examinations, informations, bailments, and recognizances *, and deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court, in like manner as in cases of felony."

Recognizances to prosecute or give evidence in misdemeanors.

Power to justices.

* *Sic.*

Recognizances to be certified, &c.

Sect. 5. "If any justice or coroner shall offend in any thing contrary to the true intent and meaning of these provisions, the court, to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, set such fine upon every such justice or coroner as the court shall think meet."

Penalty on justices, &c.

Sect. 6. "All these provisions relating to justices and coroners shall apply to the justices and coroners not only of counties at large, but also of other jurisdictions."

Provisions to apply to all justices, &c.

And as to exclusive jurisdictions, see the 30 Geo. III. c. 14, s. 2; *ante*, "**Justice**," Vol. III.

As to the recognizance by the accused, and his bail to appear, &c., see "**Bail**," Vol. I. p. 321, 322; "**Commitment for safe Custody**," Vol. I.

Recognizances of accused and bail.

As to the recognizance and sureties to keep the peace, see "**Surety for the Peace**," *post*; *Willis v. Bridger*, 2 B. & Ald. 278.

To keep the peace.

As to the recognizances on appeal or certiorari, &c., see those titles.

On appeal or certiorari.

A recognizance to prosecute or give evidence seems binding on an infant. See *Exp. Williams*, 13 Price, 670; *McClell*, 493: it was there held that infancy was no ground for discharging a forfeited recognizance to appear at the assizes to prosecute for felony.

Infancy.

A *feme covert* must enter into a recognizance, by sureties or otherwise, to appear as a witness. (*Bennet v. Watson*, 3 M. & Sel. 1; *post*, 324; 1 Chit. C. L. 91.)

Feme covert.

But, in general, the parties' own recognizance, without sureties, is all that can be insisted on. (*Ante*, Vol. II. p. 122.)

Sureties.

Where a *defendant*, indicted at the quarter sessions for a conspiracy, had entered into insufficient recognizances, it was holden that the Court of King's

2. *Refusing to enter into.* Bench, on a removal by *certiorari*, might discharge them on motion, and compel him to enter into better securities. (*R. v. Hooper and others*, 1 Chit. C. L. 491.)

II. Refusing to enter into.

Refusing to enter into.

Commitment.

If the party improperly refuse to enter into the recognizance to prosecute or give evidence, the magistrate, it seems, has power to commit him, this power being virtually included in his commission, and, by necessary consequence from the above, the 7 Geo. IV. c. 64. (See 1 *Hale*, 586; 2 *Hale*, 52.) And in a case where a married woman refused to enter into a recognizance for her appearance at sessions, to give evidence against a felon, and the magistrate committed her, the Court of King's Bench held that the commitment was legal. (*Bennet v. Watson*, 3 M. & S. 1.) But in a recent case it was made a question whether a magistrate has power to commit a person for contemptuously refusing to take an oath and give evidence touching a charge of riot alleged to have been committed by a person then under examination. (*Cropper v. Horton*, 4 D. & R., M. C. 42.) And in the same case, where the plaintiff was committed by a justice for refusing to give evidence before him, touching a certain riot and disturbance, without showing that there had been a person charged before the justices, and that the plaintiff was apprized of the existence of such a charge, with respect to which he was required to be examined as a witness, it was held the warrant of commitment was no justification of the magistrate, in an action of trespass.

III. Form, &c. of.

Form of recognizance.

Every obligation and recognizance, taken by justices of the peace, must be made to our lord the king: on pain of imprisonment of any person that shall take it otherwise. (*Dalt.* c. 168.)

It must also contain the name, place of abode, and trade or calling, both of principal and sureties, and the sums in which they are bound. (*Barl. Recog.* p. 454.)

Condition.

And it is most commonly subject to a condition, which is either indorsed or underwritten, or contained within the body of it, upon the performance of which the recognizance shall be void. (*Barl. Recog.* p. 454.)

Manner of taking it.

When the parties are to enter into recognizance, call them by their names, thus:—

“ You, A. B., acknowledge to owe to our sovereign lord the king the sum of _____, and you, C. D., acknowledge to owe to our sovereign lord the king the sum of _____, to be levied of your respective goods and chattels, lands and tenements, for the use of our said lord the king, his heirs and successors, if default shall be made in the condition following; that is to say, if you, the said A. B., shall make default in appearing,” &c.

But the parties need not sign it. (*Barl. Recog.* p. 454.)

Marking of.

And it is usual for the justices to mark at the foot of the examination, A. B., in 40l. to appear, &c. And from such short note make out a record afterwards. (*Barl. Recog.* p. 454.)

A record.

Yet the recognizance is matter of record presently so soon as it is taken and acknowledged, although it be not made up. *Dalt.* c. 168; *sed vide Glynn v. Thorpe*, 1 B. & Ald. 153, where it was considered that a recognizance was not a record until enrolled.

On parchment.

Lord Coke (1 *Inst.* 260) says that a record is a memorial or remembrance in rolls of parchment, &c. From whence it seemeth that a recognizance ought to be engrossed on parchment—perhaps, for this reason, because parchment is more durable than paper: but since there is no law which prohibits

it to be ingrossed on paper, it seemeth that, if it shall be on paper only, and not on parchment, it is good in law. 4. *Forfeiture of, &c.*

And when it is made up, if the justice shall only subscribe his name without his seal to it, this is well enough; and that may be in either of these sorts: "Acknowledged before me, J. P.," or only to subscribe his name thus—"J. P." (*Dalt. c. 176.*)

By the 3 Geo. IV. c. 46, s. 4, it is enacted, that each and every justice of the peace, before whom any recognizance (see *infra*) shall be entered into or taken, shall and is hereby required to give, or cause to be given, at the time of entering into such recognizance, to the person or persons, surety or sureties, so entering into the same, and to each of them, a written or printed paper or notice, in the form or to the effect stated in the schedule marked [see Form, *post*, No. 1,] to this act annexed, adapting the same to the particular circumstances of the case; and each and every such justice shall, in such recognizance, state and particularly specify, not only the profession, art, mystery, or trade, of every person so entering into such recognizance, together with their christian name and names, and surnames, but also the parish, township, or place of his or her residence; and, in case such residence shall be in any city, town, or borough, shall also state and particularly specify the name of the street, and number of the house (if any), in which such person shall reside, and, also, whether owner or tenant thereof, or lodger therein."

The words "any recognizance," appear sufficient to embrace all recognizances; but the whole of the statute, and the notice above required, appear to relate only to recognizances to be returned to the general or quarter sessions. (*Car. C. L.* 120.)

The 2d, 3d, & 4th sections of the 7 Geo. IV. c. 64, which have been already noticed, relate to the certifying of recognizances to *prosecute or give evidence*. See them, *ante*, 322, 323. And by the 3 Hen. VII. c. 1, the justices shall certify their recognizances for *keeping the peace* to the next sessions, that the party may be called; and, if he make default, the default shall be recorded, and the recognizance, with the record of the default, shall be sent and certified into the Chancery, King's Bench, or Exchequer.

IV. Forfeiture, Estreat, Discharge, or Respite of Recognizances.

If the party fail to comply with the condition of the recognizance, the same will become forfeited, and may be put in force against him. Forfeiture.

It is incumbent on persons under recognizance, who, in consequence either of bills not having been found, or of none having been preferred, may not be called upon to answer or give evidence, to see that their appearance is recorded so as to enable the court to order his recognizance to be cancelled, as otherwise such an attendance is no attendance at all. (Per *Thompson*, C. B., *R. v. Miller*, Jun., 1808, 4 Chit. C. L. 490, 491.)

By the 4 & 5 Wil. IV. c. 36, (constituting the Central Criminal Court,) recognizances for prosecuting to give evidence, &c. before sessions of the peace, are made obligatory on persons entering into the same to prosecute, &c. before justices of oyer and terminer and gaol delivery, notice being given to the parties entering into the recognizance of the change of the court. See "**Central Criminal Court**," Vol. I.

As to the estreating, discharging, or respiting of recognizances, see title "**Fines and Forfeitures**," Vol. II.

V. Forms.

County of } Be it remembered, that on the day of , in the (1.) Recognizance
 } year of the reign of our lord William the Fourth of the with sureties.
United Kingdom of Great Britain and Ireland, king, defender of the faith,
A. O., of , in the county aforesaid, [yeoman,] and A. S., of ,

5. Forms.

in the county aforesaid, [tailor,] and B. S., of _____, in the county aforesaid, [labourer,] personally came before me, J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace in the said county, and acknowledged themselves to owe to our said lord the king; that is to say, the said A. O., the sum of 20l., and the said A. S. and B. S., each the sum of 10l. separately, and of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said lord the king, his heirs and successors, if the said A. O. shall make default in the condition herein indorsed [or, hereunder written].

Acknowledged before me,

J. P.

The conditions of recognizances in all the variety of cases are interspersed under their proper titles.

(2.) Recognizance without sureties.

County of } Be it remembered, that on the _____ day of _____, in the _____ year of the reign of our lord William the Fourth, of the United Kingdom of Great Britain and Ireland king, defender of the faith, A. O., of _____, in the said county, yeoman, personally came before me, J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace of the said county, and acknowledged himself to owe to our said lord the king 10l., of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said lord the king, his heirs and successors, if he, the said A. O., shall fail in the condition under written [or indorsed].

J. P.

Condition.

The condition of the above-written [or, within-written] recognizance is such, that if the above-bound A. O. shall, &c. [_____] then the said recognizance to be void, or else remain in its force.

(3.) Condition of recognizance to prosecute (a).

The condition of the within-written recognizance is such, that whereas one A. B., late of [ante, 324], was this day brought before the justice within-mentioned by the within-bounden C. D., and was by him charged, for that the said A. B. [on _____ at _____, &c., describing the offence, as in the warrant]: if, therefore, he, the said C. D., shall and do at the next general [quarter sessions of the peace, or gaol delivery,] to be holden in and for the said county, prefer, or cause to be preferred, one bill of indictment for the said felony against the said A. B., and shall then also give evidence there concerning the same as well to the jurors that shall then inquire of the said felony, as also to them that shall pass upon the trial of the said A. B., that then the said recognizance to be void, or else to stand in full force and virtue.

(4.) Condition of recognizance to give evidence.

The condition of the within [or, above] written recognizance is such, that if the within [or, above] bounden E. F. shall personally appear at the next general [quarter sessions of the peace, or gaol delivery,] to be holden at _____, in and for the said county, and then and there give such evidence as he knoweth, upon a bill of indictment to be exhibited by C. D. of _____, yeoman, to the grand jury against A. B., late of _____, labourer, for [feloniously stealing _____, the property of the said C. D., or stating shortly the offence,] and in case the said bill be found a true bill, then, if the said E. F. shall then and there give evidence to the jurors that shall pass on the trial of the said A. B., upon the said bill of indictment, and not depart thence without leave of the court; then this recognizance to be void, or else to remain in its full force.

Records, Stealing, &c. of—See “Larceny,” Vol. III.; Evidence by, see “Evidence,” Vol. II. p. 50; Right to on conviction, see “Autrefois Convict;” also title, “Conviction.”

(a) See Vol. III. p. 446.

Recusant. See *ante*, "Popery," p. 255; "Dissenters," Vol. I.; "Church," Vol. I.

Re-examination. See "Evidence," Vol. II. p. 110; "Examination," Vol. II. p. 112.

Registers. See *ante*, "Parish Registers," p. 5; "Evidence," Vol. II. p. 45. "Forgery," Vol. II.

Regrating. See "Forestalling," Vol. II.

Rejoinder.

CRIMINAL pleadings rarely proceed beyond a replication. The following is a form of rejoinder—

"And the said C. D. as to the said replication of the said A. G. to the said plea of him the said C. D., saith that our lord the king, by reason of any thing by the said C. D. in that replication alleged, ought not further to prosecute the said indictment against him the said C. D.; because he saith that," [&c., so proceeding to state the matter of the rejoinder; and concluding thus:] *"And of this the said C. D. puts himself upon the country."*

Relations, when incompetent witnesses. See "Evidence," Vol. II. p. 81.

Religion. See "Church," Vol. I.; "Common Prayer," Vol. I.; "Lewdness," Vol. III.; "Popery," *ante*, p. 255; "Dissenters," Vol. I.; *As to when witness incompetent from—See* "Evidence," Vol. II. p. 78.

Remanding for Examination. See "Examination," Vol. II. p. 119; "Commitment," Vol. I.

Rent. See "Distress," Vol. I.

Replevin, when it lies to try the right of distress for a penalty, see Vol. I. "Distress under Justice's Warrant." To try the legality of distress for rent, see Vol. I., title "Distress for Rent."

Replication.

A REPLICATION signifies the answer in pleading to the defendant's plea. Except sometimes to special pleas to indictments for not repairing highways, a special replication seldom occurs in criminal proceedings; and the common *similiter* to the general issue is the only replication usually adopted.

The following are the forms of the commencement and conclusion of replications.

Form of to an indictment.

"*And hereupon A. C.,*" [the clerk of the peace, or clerk of the arraigns], "*who prosecutes for our said lord the king in this behalf, says, that by reason of any thing in the said plea of the said C. D. above pleaded in bar alleged, our said lord the king ought not to be precluded from prosecuting the said indictment against the said C. D.; because he says that,*" [&c. state the matter of the replication; and conclude thus:] "*And this he the said A. C. prays may be inquired of by the country.*" Or, if it conclude with a verification, then thus: "*And this he the said A. C. is ready to verify; wherefore he prays judgment, and that the said C. D. may be convicted of the premises in the said indictment above specified.*"

Form of to a plea to an indictment in K. B.

"*And hereupon Edmund Henry Lushington, Esq., coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who prosecutes for our said lord the king in this behalf, says, that by reason of,*" &c.; and the conclusion thus: "*And this the said coroner and attorney of our said lord the king prays,*" &c.; as above. [Where the plea is pleaded to an information, the replication is thus: "*And the said attorney-general [or coroner and attorney] of our said lord the king, who prosecutes as aforesaid, says, that by reason of,*" &c. &c. "*And this the said attorney-general [or coroner and attorney] of our said lord the king prays,*" &c., as above.]

Rescue.

As to escapes, see "*Escape,*" Vol. I. p. 3 to 15; as to prison-breaking, see *ante*, "*Prison-Breaking.*"

What a *rescous* is. **RESCOUS** is an ancient French word, coming from *rescours*, that is, *recuperare*, to recover; and signifies a forcible setting at liberty, against law, a person arrested by the process or course of law. (1 *Inst.* 160.)

Rescue is a common-law felony, if the party rescued be a convicted felon. (*R. v. Haswell, R. & R. C. C.* 458.) It is a misdemeanor, if the party rescued be convicted of a misdemeanor. (1 *Hale*, 607.)

It seems that it is necessary that the rescuer should have knowledge that the person is under arrest for a criminal offence, if he be in the custody of a private person: but if he be in the custody of an officer, there at his peril he is to take notice of it. (2 *Hale*, 606.)

But it is said, that to rescue a felon taken on a general warrant, to answer what shall be objected against him, no cause being expressed in the warrant, is not felony. (1 *Hale*, 578.)

Nor unless a felony hath been really done. (*Hale's Sum.* 116.)

Hindrance of arrest.

A hindrance of a person to be arrested, that has committed felony, is a misdemeanor, but no felony: but if the party be arrested, and then rescued, if the arrest were for felony, the rescuer is a felon; if for treason, a traitor; if for trespass, fineable. (*Hale's Sum.* 116; 2 *Haw. c.* 21, s. 7; *R. & R. C. C.* 458.)

As to rescuing a distress for rent, see "*Distress for Rent,*" Vol. I. What amounts to, see *Knowles v. Blake*, 3 *M. & P.* 214; 5 *Bing.* 499, *S. C.*

Although a prison-breaker may be arraigned for that offence, before he be arraigned for the crime for which he was imprisoned, yet he who rescues one imprisoned for felony, cannot, according to the better opinion, be arraigned for such offence, as for a felony, till the principal offender be attainted; but he may be immediately proceeded against for a misprision, if the king pleases. (2 *Haw. c. 21, s. 7.*)

Therefore, if the principal die before the attainder, he shall be fined and imprisoned. (*Hale's Sum. 116.*)

Also, if the principal be found not guilty, or guilty of a crime not capital, the rescuer ought to be discharged of felony: but he may be fined for the misdemeanor. (1 *Hale, 598, 599.*) See "*Accessory*," Vol I.

An indictment of *rescous* must set forth the nature and cause of the imprisonment, and the special circumstances of the fact in question. (2 *Haw. c. 21, s. 5.*)

Upon an indictment at Exeter summer assizes, 1795, for an assault and rescue, it appeared that the sheriff's officers having apprehended a man by virtue of a writ against him, a mob collected, and endeavoured by violence to rescue the prisoner. In the course of the scuffle, which was at ten o'clock at night, one of the bailiffs, having been violently assaulted, struck one of the assailants, a woman, and, as it was thought for some time, had killed her; whereupon, and before her recovery was ascertained, the constable was sent for, and charged with the custody of the bailiff who had struck the woman. The bailiffs, on the other hand, gave the constable notice of their authority, and represented the violence which had been previously offered to them; notwithstanding which, he proceeded to take them into custody upon the charge of murder, and at first offered to take care also of their prisoner, who, however, was soon rescued by the surrounding mob: and the woman having recovered, the bailiffs were released by the constable the next morning. *Heath, J.*, was clearly of opinion that the constable and his assistants were guilty of the assault and rescue, and directed the jury accordingly; who, however, acquitted the defendants. (1 *East's P. C. 305.*)

By the 25 Geo. II. c. 37, s. 9, "if any person or persons whatsoever shall by force set at liberty or rescue, or attempt to rescue or set at liberty, any person out of prison, who shall be committed for, or found guilty of murder, or rescue, or attempt to rescue, any person convicted of murder, going to execution, or during execution, every person so offending shall be deemed, taken, and adjudged to be guilty of felony, and shall suffer death without benefit of clergy."

And as to rescuing the body after execution, see "*Homicide*," Vol. III. p. 332.

By the 1 & 2 Geo. IV. c. 88, "An Act for the Amendment of the Law of Rescue," sect. 1, after reciting that "divers daring attempts have of late been made to effect the rescue or prevent the detention of persons charged with, or committed for or on suspicion of felony: and whereas it might tend more effectually to prevent the commission of such offences if further provisions were made for the punishment of persons who may hereafter be convicted thereof, as are hereinafter enacted:" it is enacted, that "if any person shall rescue, or aid and assist in rescuing, from the lawful custody of any constable, officer, headborough, or other person whomsoever, any person charged with, or suspected of, or committed for any felony, or on suspicion thereof, then if the person or persons so offending shall be convicted of felony, and be entitled to the benefit of clergy (a), and be liable to be imprisoned for any term not exceeding one year, it shall be lawful for the court by or before whom any such person or persons shall be convicted, to order and direct, in case it shall think fit, that such person or persons, instead of being so fined and imprisoned as aforesaid,† shall be transported beyond the seas for seven years, or be imprisoned only, or be imprisoned and kept

When it shall be tried.

Indictment for.

Rescuing persons convicted of murder.

Rescuing persons charged with felony.

† *Sic.*

(a) See as to clergy being abolished, "*Clergy*," Vol. I.

to hard labour in the common gaol, house of correction, or penitentiary house, for any term not less than one, and not exceeding three, years." —[See 7 & 8 Geo. IV. c. 88, s. 10.]

Rescuing convicts. As to rescuing convicts, see 5 Geo. IV. c. 84, s. 22, *post*, "Transportation."

Assaults on peace officers, or to prevent arrest of offenders. The 9 Geo. IV. c. 31, s. 25, contains an enactment against the assaulting of peace officers and others in the execution of their duty in apprehending, &c. of offenders, see "Assaults," Vol. I.

There are also special penalties enacted for rescuing offenders against particular statutes, which belong not to this general title.

Outlawry. Upon the return of a *rescous*, process of outlawry shall issue. (2 Haw. c. 27, s. 113; *ante*, p. 307, 308.)

Forms.

(1.) Commitment for rescue.

Commencement as usual, *ante*, 175, No. 1.] on the _____ day of _____, A. D. _____, at the parish of _____ in the said county, whilst C. D., a constable, was conveying one E. F. to the common gaol at _____, under and by virtue of a warrant of commitment of one of his majesty's justices of the peace, for having [feloniously stolen the goods of J. N.], did unlawfully assault and beat the said C. D., and did then and there [feloniously,] unlawfully, and forcibly, and against the will of the said C. D., rescue the said E. F. out of the custody of the said C. D. And you the said keeper, &c. [Conclude as usual, as *ante*, 175, No. 1.]

The word "feloniously" should be omitted in all cases (excepting murder, see the 25 Geo. II. c. 37, s. 9, *ante*, p. 329), where the party is not convicted of the offence; and also in cases where he has been convicted, if the offence be under felony.

(2.) Indictment for a rescue.

_____ (venue). The jurors for our lord the king upon their oath present, that on the _____ day of _____, in the _____ year of the reign of _____, J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, did make, direct, and deliver a warrant [or precept] in writing, to A. C., of _____, in the said county, [yeoman,] constable of the town of _____ aforesaid, in the county aforesaid, by which said warrant he, the said A. C., the constable aforesaid, was commanded to take the body of A. O., late of _____, [yeoman,] and bring and have him, the said A. O., before the said J. P., to be examined by him the said J. P., concerning [an assault said to have been committed by him, the said A. O., upon A. I., of _____, yeoman]; which said A. C., the constable aforesaid, afterwards, that is to say, on the _____ day of _____, in the year aforesaid, at _____ aforesaid, in the county aforesaid, by virtue of the said warrant, did take and arrest him, the said A. O., for the cause aforesaid, and him the said A. O., in his custody, by virtue of the said warrant, then and there had: and that the said A. O., late of _____, aforesaid, in the county aforesaid, [yeoman,] and B. O., late of the same, [yeoman,] well-knowing the said A. O. so to be arrested as aforesaid, afterwards, to wit, on the said _____ day of _____, in the year aforesaid, at _____ aforesaid, in the county aforesaid, with force and arms, in and upon the said A. C., the constable aforesaid, then and there being, in the peace of God and of our lord the king, and in the execution of his said office then and there being, did make an assault, and him, the said A. C., then and there did beat, wound, and ill-treat; and that the said B. O., him, the said A. O., out of the custody of the said A. C., and against the will of the said A. C., then and there, with force and arms, unlawfully did rescue, and put at large, to go where he would; and that the said A. O. himself, out of the custody of the said A. C., and against the will of the said A. C., then and there, with force and arms, unlawfully did rescue, and escape at large, to go where he would; in contempt of our said lord the king and his laws, to the great damage of the said A. C., to the evil example of all others, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.]

Restitution of Stolen Goods. See "Larceny," Vol. III.

Returning from Transportation. See "Transportation," *post*.

Rewards.

AS to the expenses of prosecuting, see "Costs," Vol. I.

As to the offence of taking rewards to help to stolen goods, see "Larceny," Vol. III.

Expenses.

Helping to stolen goods.

Court may order rewards to those who have been active in apprehending.

In certain cases.

The 7 Geo. IV. c. 64, s. 28, enacts, "that where any person shall appear to any court of oyer and terminer, gaol delivery, superior criminal court of a county palatine or court of great sessions, to have been active in or towards the apprehension of any person charged with murder, or with feloniously and maliciously shooting at, or attempting to discharge any kind of loaded firearms at any other person, or with stabbing, cutting, or poisoning, or with administering any thing to procure the miscarriage of any woman, or with rape, or with burglary or felonious housebreaking, or with robbery on the person, or with arson, or with horse-stealing, bullock-stealing, or sheep-stealing, or with being accessory before the fact to any of the offences aforesaid, or with receiving any stolen property knowing the same to have been stolen, every such court is hereby authorized and empowered, in any of the cases aforesaid, to order the sheriff of the county in which the offence shall have been committed to pay to the person or persons, who shall appear to the court to have been active in or towards the apprehension of any person charged with any of the said offences, such sum or sums of money as to the court shall seem reasonable and sufficient to compensate such person or persons for his, her, or their expenses, exertions, and loss of time, in or towards such apprehension; and where any person shall appear to any court of sessions of the peace to have been active in or towards the apprehension of any party charged with receiving stolen property, knowing the same to have been stolen, such court shall have the power to order compensation to such person in the same manner as the other courts hereinbefore mentioned; provided always, that nothing herein contained shall prevent any of the said courts from also allowing to any such persons, if prosecutors or witnesses, such costs, expenses, and compensation, as courts are by this act empowered to allow to prosecutors and witnesses respectively."

Proviso as to expenses.

Officer to be paid 5s. for the order, and the reward to be paid by the sheriff, who is to be repaid by the treasurer.

Sect. 29. "Every order for payment to any person in respect of such apprehension as aforesaid, shall be forthwith made out and delivered by the proper officer of the court unto such person, upon being paid for the same the sum of 5s. and no more; and the sheriff of the county for the time being is hereby authorized and required, upon sight of such order, forthwith to pay to such person, or to any one duly authorized on his or her behalf, the money in such order mentioned; and every such sheriff may immediately apply for repayment of the same to the commissioners of his majesty's treasury, who, upon inspecting such order, together with the acquittance of the person entitled to receive the money thereon, shall forthwith order repayment to the sheriff of the money so by him paid, without any fee or reward whatsoever."

Sect. 30. "If any man shall happen to be killed in endeavouring to apprehend any person who shall be charged with any of the offences hereinbefore last mentioned, it shall be lawful for the court before whom such person shall be tried to order the sheriff of the county to pay to the widow of the man so killed, in case he shall have been married, or to his child or children, in case his wife shall be dead, or to his father or mother, in case

Allowance may be made to widow, child, or parent, of a person killed in endeavouring to apprehend certain

7 Geo. 4. c. 64.
offenders; to be
paid by the sheriff.

Repeal of prior
acts.

Police.

he shall have left neither wife nor child, such sum of money as to the court in its discretion shall seem meet; and the order for payment of such money shall be made out and delivered by the proper officer of the court unto the party entitled to receive the same, or unto some one on his or her behalf, to be named in such order by the direction of the court; and every such order shall be paid by and repaid to the sheriff in the manner hereinbefore mentioned."

By this stat. the 4 Wil. & Mary, c. 8, and the 2d, 3d, and 4th sections of the 10 & 11 Wil. III. c. 23, are repealed. The statutes 5 & 6 Anne, c. 31, 58 Geo. III. c. 70, are wholly repealed, except the 7th section, regarding disorderly houses. See "*Disorderly Houses*," Vol. I.

As to rewards to police officers, see *ante*, "*Police*."

Riot—Unlawful Assembly—Training to Arms.

See titles, "*Affray*;" "*Assault*," Vol. I.

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I. What is a Riot, Rout, or Unlawful Assembly.

What is an un-
lawful assembly.

WHEN three persons or more shall assemble themselves together, with an intent mutually to assist one another against any who shall oppose them in the execution of some enterprise of a private nature, with force or violence, against the peace, or to the manifest terror of the people, whether the act intended were of itself lawful or unlawful; and if they only meet to such a purpose or intent, although they shall after depart of their own accord, without doing any thing, this is an *unlawful assembly*.

What a rout.

If after their first meeting they shall move forward towards the execution of any such act, whether they put their intended purpose in execution or not, this, according to the general opinion, is a *rout*.

What a riot.

And if they execute such a thing indeed, then it is a *riot*. (1 *Haw.* c. 65, s. 1; *Dalt.* c. 136, p. 310, 311.)

How many to
constitute.

Three persons or more.—And, therefore, if the jury do acquit all but two, and find them guilty, the verdict is void, unless they be indicted *together with other rioters unknown*, because it finds them guilty of an offence whereof it is impossible that they should be guilty; for there can be no riot where there are no more persons than two. (2 *Haw.* c. 47, s. 8.)

Who.

(*R. v. Scott and Hans*, 3 *Burr.* 1262.) Six persons were indicted; whereof two died before trial, two were acquitted, and two convicted. It

s. 1.] **Riot—Unlawful Assembly—Training to Arms.**

was moved in arrest of judgment, for that two only could not be found guilty of a riot, unless they were indicted *together with other persons unknown*; which was not the case here; for it doth not appear that any others were guilty besides these two; here is no finding as to the two dead persons. —By Lord Mansfield. Six were indicted. Two of them are acquitted. Two are dead untried. The jury have found the other two guilty of a riot; consequently, it must have been with one or both of those who have not been tried; as it could not otherwise have been a riot.

1. *What is a Riot, Rout, &c.*

Note.—In 1 *Haw.* p. 156, 157, 158, (folio edition,) the words *more than three persons* are three times over inserted instead of *three persons or more*; which is only remarked as an instance, that, in a variety of matter, it is impossible for the mind of man to be always equally attentive.

Women are punishable as rioters; but infants, under the age of discretion, are not persons within the aforesaid description, punishable as rioters. (1 *Haw.* c. 65, s. 14.)

Women.
Infants.

Assemble themselves together.]—It seems agreed, that if a number of persons, being met together at a fair, or market, or church aisle, or on any other lawful and innocent occasion, happen, on a sudden quarrel, to fall together by the ears, they are not guilty of a riot, but of a sudden affray only, of which none are guilty but those who actually engage in it; because the design of their meeting was innocent and lawful, and the subsequent breach of the peace happened unexpectedly, without any previous intention concerning it. Yet it is said, that if persons, innocently assembled together, do afterwards, upon a dispute happening to arise among them, form themselves into parties, with promises of mutual assistance, and then make an affray, they are guilty of a riot; because, upon their confederating together with an intention to break the peace, they may as properly be said to be assembled together for that purpose from the time of such confederacy, as if their first coming together had been on such a design. (1 *Haw.* c. 65, s. 3.)

The nature of the assembly.

An assembly of a man's friends for the defence of his person against those who threaten to beat him, if he go to such a market, &c., is unlawful; for he who is in fear of such insults must provide for his safety by demanding the surety of the peace against the persons by whom he is threatened, and not make use of such violent methods, which cannot but be attended with the danger of raising tumults and disorders, to the disturbance of the public peace. But an assembly of a man's friends at his own house, for the defence of the possession of it against such as threaten to make an unlawful entry, or for the defence of his person against such as threaten to beat him in his house, is indulged by law; for a man's house is looked upon as his castle. He is not, however, to arm himself and assemble his friends in defence of his close. (Per *Heath, J., R. v. the Bishop of Bangor, Shrewsbury Sum. Ass.* 1796. See 1 *Russ.* 362, and see the authorities there cited.)

And the law is, that if any person encourages, or promotes, or takes part in riots, whether by words, signs, or gestures, or by wearing the badge or ensign of the rioters, he is himself to be considered a rioter; for in this case all are principals. (Per *Mansfield, C. J., in Clifford v. Brandon*, 2 *Campb.* 370.)

In the execution of some enterprise of a private nature.]—It also seems agreed that the injury or grievance complained of and intended to be revenged or remedied by such an assembly must relate to some private quarrel only; as the inclosing of lands, in which the inhabitants of a town claim a right of common, or gaining the possession of tenements, the title whereof is in dispute, or such like matters relating to the interest or disputes of particular persons, and no way concerning the public; for, wherever the intention of such an assembly is to redress public grievances, as to pull down inclosures in general, or reform religion, and the like, it is high treason. (1 *Haw.* c. 65, s. 6.)

Against the peace, or to the terror of the people.]—It seems to be clearly agreed that in every riot there must be some such circumstances, either of

Violence necessary.

1. *What is a* actual force or violence, or at least of an apparent tendency thereto, as are *Riot, Rout, &c.* naturally apt to strike a terror into the people, as the show of armour, threatening speeches, or turbulent gestures; for every such offence must be laid to be done *in terrorem populi*. And from hence it clearly follows that assemblies at wakes, or other festival times, or meetings for exercise of common sports or diversions, as bull-baiting, wrestling, and such like, are not riotous (a). (1 *Haw. c. 65, s. 5*; *R. v. Hughes, 4 C. & P. 372*; see *Ex parte Hill, 1 M. & Ry. Mag. C. 106, note.*) In *R. v. Hughes, and others, 4 C. & P. 373*, it was held the defendants could not be convicted of a riot, because the indictment did not show it was in *terrorem populi*. As to prize-fighting, see *R. v. Billingham and others, 4 D. & R. M. C. 127*; ante, "*Fighting*," Vol. II.

But it is not necessary, in order to constitute this crime, that personal violence should have been committed. (Per *Mansfield, C. J.*, in *Clifford v. Brandon, 2 Campb. 369.*)

From the same ground also it seems to follow that it is possible for three persons or more to assemble together with an intention to execute a wrongful act, and also actually to perform their intended enterprise, without being rioters: as if a man assemble a meet company, to carry away a piece of timber or other thing, whereto he pretends a right, that cannot be carried without a great number, if the number be not more than are needful for such purpose, although another man hath better right to the thing so carried away, and that this act be wrong and unlawful, yet it is of itself no riot, except there be withal threatening words used, or other disturbance of the peace. (1 *Haw. c. 65, s. 5*; *Lamb. 178*; *Dalt. c. 137*; *R. v. Birt, 5 C. & P. 154.*)

Much more may any person, in a peaceable manner, assemble a meet company to do any lawful thing, or to remove or cast down any common nuisance: thus, every private man, to whose house or land any nuisance shall be erected, made, or done, may in peaceable manner assemble a meet company, with necessary tools, and may remove, pull, or cast down such nuisance, and that before any prejudice received thereby; and for that purpose, if need be, may also enter into another man's ground. Thus, a man erected a wear across a common river, where people have a common passage with their boats, and divers did assemble with spades, crows of iron, and other things necessary to remove the said wear, and make a trench in his land, that did erect the wear, to turn the water, so as they might the better take up the said wear, and they did remove the said nuisance; this was holden neither any forcible entry, nor yet any riot. (*Dalt. c. 137.*)

But in the cases aforesaid, if in removing any such nuisance the persons so assembled shall use any threatening words, (as to say they will do it though they die for it, or such like words,) or shall use any other behaviour, in apparent disturbance of the peace, then it seemeth to be a riot; and therefore, where there is cause to remove any such nuisance, or to do any like act, it is the safest not to assemble any multitude of people, but only to send one or two persons, or if a greater number, yet no more than are needful, and only with meet tools, to remove, pull, or cast down the same, and that such persons tend their business only, without disturbance of the peace, or threatening speeches. (*Dalt. c. 137.*)

Reading riot act.

It is not necessary that the riot act should be read to constitute a riot. Before the proclamation can be read, a riot must exist; and the effect of the proclamation will not change the character of the meeting, but make those guilty of a capital offence who do not disperse within one hour after the proclamation is read. (*R. v. Furzey, 6 C. & P. 81.*)

(a) But see in 2 *Chit. Crim. L. 494*, an ancient custom of kicking about footballs on Shrove Tuesday, at Kingston-upon-Thames. an indictment said to have been drawn in the year 1797 by a very eminent pleader, for the purpose of suppressing

Whether the act intended were of itself lawful or unlawful.]—It hath been generally holden that it is no way material, whether the act intended to be done by such an assembly be of itself lawful or unlawful: from whence it follows, that if three or more persons assist a man to make a forcible entry into lands, to which one of them has a good right of entry, or if the like number in a violent and tumultuous manner join together in removing a nuisance, or other thing which may lawfully be done in a peaceable manner, they are as properly rioters as if the act intended to be done by them were never so unlawful. (1 Haw. c. 65, s. 7; Dalt. c. 137.)

3. *Injuries by Rioters, &c.*

Legality of intended act.

II. **Punishment for, and Expenses of Prosecution.**

The punishment of persons guilty of a riot by the common law, is fine or imprisonment, or both; and by the 3 Geo. IV. c. 114, hard labour may be imposed, either in addition or lieu of other punishment. (See "**Hard Labour**," Vol. II.)

Punishment.

By the 7 Geo. IV. c. 64, s. 23, the court may allow the expenses of a prosecution for a riot. (See *R. v. Johnson*, R. & M. C. C. 173; "**Costs**," Vol. I.)

III. **Injuries by Rioters, &c.**

By the 7 & 8 Geo. IV. c. 30, s. 8, "if any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force demolish, pull down, or destroy, or *begin to demolish*, pull down, or destroy, any church or chapel, or any chapel for the religious worship of persons dissenting from the United Church of England and Ireland, duly registered or recorded, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof, or any steam-engine, or other engine, for sinking, draining, or working any mine, or any staith, building, or erection, used in conducting the business of any mine, or any bridge, waggon-way, or trunk for conveying minerals from any mine; every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon."

Injuries by rioters.

To buildings.

Machinery.

Engines.

Waggon-ways, &c., belonging to mines.

Death.

See the general clauses, "**Malicious Injuries to Property**," Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals the 9 Geo. III. c. 29, 52 Geo. III. c. 130, and 56 Geo. III. c. 125, and so much of the 1 Geo. I. st. 2, c. 5, as relates to any rioters demolishing or pulling down, or beginning to demolish or pull down, any of the buildings therein mentioned.

It is not a "beginning to demolish" a house within the meaning of the 7 & 8 Geo. IV. c. 30, s. 8, unless the jury be satisfied that the ultimate object of the rioters was to demolish the house; and that if they had carried their intention into full effect, they would, in point of fact, have demolished it. For if the rioters merely do an injury to the house, and then go away, having completed their purpose, it is not a beginning to demolish within the statute. (*R. v. Thomas*, 4 C. & P. 237; *R. v. Price*, 5 C. & P. 510.)

Where a mob, after the obnoxious person had escaped, continued to attack a house until the police interfered, it was left to the jury to say, whether they had not the intention to demolish the house, as well as to injure the person; and the jury, being of that opinion, found the defendants guilty. (*R. v. Batt*, 6 C. & P. 329.)

As to remedies against the hundred, in case of damage done by rioters, see the 7 & 8 Geo. IV. c. 31; "**Hundred**," Vol. III.

Liability of hundred.

IV. How Riots may be restrained by a Private Person.

How restrained
by a private
person.

By the common law, any private person may lawfully endeavour to suppress a riot, by staying those whom he shall see engaged therein from executing their purpose, and also by stopping others whom he shall see coming to join them. However, it seems extremely hazardous for private persons to proceed to these extremities; and such violent methods seem only proper against such riots as savour of rebellion. (1 *Haw. c. 65, s. 11.*)

In the riots of 1780, however, this matter was much misunderstood, and a general persuasion prevailed that no indifferent person could interpose without the authority of a magistrate; in consequence of which much mischief was done, which might otherwise have been prevented. So, there is a great difference between the right of a private person in a case of intended felony and of breach of the peace; it is lawful for a private person to do any thing to prevent the perpetration of a felony. (*Vide per Heath, J., Handcock v. Baker, 2 B. & P. 264; ante, "Arrest," Vol. I. 266.*)

V. How restrained by a Constable or other Peace Officer.

How restrained
by a constable.

By the common law, the sheriff, constable, and other peace officers, may and ought to do all that in them lies, towards the suppressing of a riot, and may command all other persons to assist therein. (1 *Haw. c. 65, s. 11.*)

The 1 & 2 Wil. IV. c. 41, enables magistrates to appoint special constables on occasions of tumults, riots, or felonies, and enables those constables to act on such occasions, and contains other provisions relative thereto. These will be found collected under title "*Constable*," Vol. I.

VI. How restrained by one Justice.

How restrained by
one justice.

By the common law, a justice of the peace has power to restrain rioters; and see *R. v. Billingham, 4 D. & R. M. C. 127.*

By the 34 Edw. III. c. 1, the justices of the peace shall have power to restrain rioters, and to arrest and chastise them according to their offences; and cause them to be imprisoned and duly punished according to the law and custom of the realm, and according to that which to them shall seem best to do, by their discretions and good advisement.

And this statute hath been liberally construed for the advancement of justice, for it hath been resolved, that if a justice find persons riotously assembled, he alone, without staying for his companions, hath not only power to arrest the offenders and bind them to their good behaviour, or imprison them if they do not offer good bail; but that he may also authorize others to arrest them by a bare verbal command, without other warrant; and that by force thereof, the person so commanded may pursue and arrest the offenders in his absence as well as presence. Also it is said, that, after a riot is over, any one justice may send his warrant to arrest any person who was concerned in it, and also that he may send him to gaol till he shall find sureties for his good behaviour. (1 *Haw. c. 65, s. 16.*)

But it seems to be agreed that no one justice hath any power by force of this statute either to record a riot upon his own view, or to take an inquisition thereof after it is over. Also, if one justice, proceeding upon this statute, shall arrest an innocent person as a rioter, it seemeth that he is liable to an action of trespass, and that the party arrested may justify the rescuing himself, because no single justice is by this statute made a judge of the said offence. But if a riot shall be committed by persons armed in an unusual manner, contrary to the statute of *Northampton, 2 Edw. III. c. 3*, and any one justice acting *ex officio*, in pursuance of the statute, seize the armour,

and imprison the offender, and make a record of the whole matter, such a record cannot be traversed, because it is made by one acting in a judicial capacity. And for the same reason, if a justice proceeding on the statute of the 15 Rich. II., against forcible entries and detainers, shall upon his own view record a riot, which shall be committed in the making of any such forcible entry or detainer, a riot so recorded cannot be traversed. Also, if a justice, acting as a judge by any statute whatsoever empowering him so to do, make a record upon his view of a riot committed in his presence, such record shall not be traversed; for the law gives such uncontrollable credit to all matters of record made by any judge of record as such, that it will never admit of an averment against the truth thereof. (1 Haw. c. 65, s. 17.)

6. *How restrained by one Justice.*

But if the rioters are above the number of twelve, the offence is greatly enhanced, and the power of one justice very much enlarged, by the 1 Geo. I. st. 2, c. 5, commonly called the Riot Act, and intituled, "An Act for preventing Tumults and Riotous Assemblies, and for the more speedy and effectual punishing the Rioters." Sect. 1, after reciting, that "whereas of late many rebellious riots and tumults have been in divers parts of this kingdom, to the disturbance of the public peace, and the endangering of his majesty's person and government, and the same are yet continued and fomented by persons disaffected to his majesty, presuming so to do, for that the punishments provided by the laws now in being are not adequate to such heinous offences; and by such rioters his majesty and his administration have been most maliciously and falsely traduced, with an intent to raise divisions, and to alienate the affections of the people from his majesty; therefore, for the preventing and suppressing of such riots and tumults, and for the more speedy and effectual punishing the offenders therein:" enacts, "that if any persons, to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, at any time after the last day of July, in the year of our Lord 1715, and being required or commanded by any one or more justice or justices of the peace, or by the sheriff of the county, or his under-sheriff, or by the mayor, bailiff or bailiffs, or other head-officer, or justice of the peace of any city or town corporate, where such assembly shall be, by proclamation to be made in the king's name, in the form hereinafter directed, to disperse themselves and peaceably to depart to their habitations, or to their lawful business, shall, to the number of twelve or more (notwithstanding such proclamation made), unlawfully, riotously, and tumultuously remain or continue together by the space of one hour after such command or request made by proclamation, that then such continuing together to the number of twelve or more, after such command or request made by proclamation, shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy." (See as to clergy, which is now abolished, "*Clergy*," Vol. I.)

Rioters remaining one hour after proclamation,

shall be adjudged felons.

If the proclamation be read several times, the hour is to be computed from the first reading. (*R. v. Woolcock*, 5 C. & P. 516.)

If there be such an assembly that there would have been a riot if the parties had carried their purpose into effect, this is within the act, and whether there was a cessation or not is a question for a jury. (*Id.*)

Sect. 2. "The order and form of the proclamation that shall be made by the authority of this act, shall be as hereafter followeth (that is to say), the justice of the peace, or other person authorized by this act to make the said proclamation, shall, among the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be, while proclamation is making, and after that shall openly and with loud voice make or cause to be made proclamation in these words, or like in effect:—

How the proclamation shall be made.

"Our sovereign lord the king chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the act made in the first year of King George, for preventing tumults and riotous assemblies. "God save the King."

The proclamation.

6. *How restrained by one Justice.*

Justices, &c., to resort to the place.

Persons so assembled, and not dispersing within an hour, to be seized.

And if they make resistance, the persons killing them, &c. to be indemnified.

Opposing the proclamation, felony.

And persons so assembled, if the proclamation be hindered, shall

“And every such justice and justices of the peace, sheriff, under-sheriff, mayor, bailiff, and other head-officer aforesaid, within the limits of their respective jurisdictions, are hereby authorized, empowered, and required, on notice or knowledge of any such unlawful, riotous, and tumultuous assembly, to resort to the place where such unlawful, riotous, and tumultuous assemblies shall be, of persons to the number of twelve or more, and there to make or cause to be made proclamation in manner aforesaid.”

Great care must be taken in reading the proclamation correctly. Thus, if in reading it the magistrate omit the words “God save the King” at the end of it, persons remaining together for an hour after such reading of the proclamation, cannot be capitally convicted under the act. (*R. v. Child and others*, 4 C. & P. 442.)

Where the indictment omitted the words “of the reign of,” in setting out the proclamation, which were contained in such proclamation, *Patteson, J.*, held the variance to be fatal. (*R. v. Woolcock*, 5 C. & P. 516.) Those words are not in the form given by the act.

Sect. 3. “If such persons so unlawfully, riotously, and tumultuously assembled, or twelve or more of them, after proclamation made in manner aforesaid, shall continue together and not disperse themselves within one hour, that then it shall and may be lawful to and for every justice of the peace, sheriff, or under-sheriff of the county where such assembly shall be, and also to and for every high or petty constable, and other peace-officer within such county, and also to and for every mayor, justice of the peace, sheriff, bailiff, and other head-officer, high or petty constable, and other peace-officer of any city or town corporate where such assembly shall be, and to and for such other person and persons as shall be commanded to be assisting unto any such justice of the peace, sheriff, or under-sheriff, mayor, bailiff, or other head-officer aforesaid (who are hereby authorized and empowered to command all his majesty’s subjects of age and ability to be assisting to them therein), to seize and apprehend, and they are hereby required to seize and apprehend such persons so unlawfully, riotously, and tumultuously continuing together after proclamation made, as aforesaid, and forthwith to carry the persons so apprehended before one or more of his majesty’s justices of the peace of the county or place where such persons shall be so apprehended, in order to their being proceeded against for such their offences, according to law; and that if the persons so unlawfully, riotously, and tumultuously assembled, or any of them, shall happen to be killed, maimed, or hurt, in the dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, by reason of their resisting the persons so dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, that then every such justice of the peace, sheriff, under-sheriff, mayor, bailiff, head-officer, high or petty constable, or other peace-officer, and all and singular persons, being aiding and assisting to them, or any of them, shall be free, discharged, and indemnified, as well against the king’s majesty, his heirs, and successors, as against all and every other person and persons, of, for, or concerning the killing, maiming, or hurting of any such person or persons so unlawfully, riotously, and tumultuously assembled, that shall happen to be so killed, maimed, or hurt, as aforesaid.”

Sect. 5. “If any person or persons do or shall, with force and arms, wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly let, hinder, or hurt, any person or persons that shall begin to proclaim or go to proclaim, according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, that then every such opposing, obstructing, letting, hindering, or hurting such person or persons, so beginning or going to make such proclamation, as aforesaid, shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy; and that also every such person or persons so being unlawfully, riotously, and tumultuously assembled, to the number of twelve, as aforesaid, or more, to whom proclamation should or ought to have been made if the same had not been hindered, as aforesaid, shall likewise, in case they or

any of them, to the number of twelve or more, shall continue together, and not 7. *How re-*
 disperse themselves within one hour after such let or hindrance so made, *strained by*
 having knowledge of such let or hindrance so made, shall be adjudged felons, *two Justices.*
 and shall suffer death as in case of felony, without benefit of clergy." (As
 to clergy, which is now abolished, see "**Clergy**," Vol. I.)

Sect. 7. "This act shall be openly read at every quarter session, and at every leet or law-day."

Sect. 8. "No person or persons shall be prosecuted by virtue of this act, for any offence or offences committed contrary to the same, unless such prosecution be commenced within twelve months after the offence committed."

Sect. 9. "The sheriffs and their deputies, stewards and their deputies, bailies of regalities and their deputies, magistrates of royal boroughs, and all other inferior judges and magistrates, and also all high and petty constables, or other peace officers of any county, stewartry, city, or town, within that part of Great Britain called Scotland, shall have the same powers and authority for putting this present act in execution within Scotland, as the justices of the peace and other magistrates aforesaid respectively have by virtue of this act, within and for the other parts of this kingdom; and that all and every person and persons who shall at any time be convicted of any of the offences aforementioned, within that part of Great Britain called Scotland, shall for every such offence incur and suffer the pain of death, and confiscation of moveables: and also that all prosecutions for repairing the damages of any church or chapel, or any building for religious worship, or any dwelling-house, barn, stable, or out-house which shall be demolished or pulled down in whole or in part, within Scotland, by any persons unlawfully, riotously, or tumultuously assembled, shall and may be recovered by summary action, at the instance of the party aggrieved, his or her heirs, or executors, against the county, stewartry, city, or borough respectively, where such disorders shall happen, the magistrates being summoned in the ordinary form, and the several counties and stewartries called by edictal citation at the market-cross of the headborough of such county or stewartry respectively, and that in general, without mentioning their names and designations."

Sect. 10. "This act shall extend to all places for religious worship, in that part of Great Britain called Scotland, which are tolerated by law, and where his majesty king George, the Prince and Princess of Wales, and their issue, are prayed for in express words."

nevertheless suffer as felons.

Act to be read at the quarter sessions, &c.

Prosecution within twelve months.

Sheriffs, &c. in Scotland to have the same power as justices, &c., have in England.

Punishment of persons offending in Scotland.

Damages of any church, &c., pulled down, &c., in Scotland, how to be recovered, and of whom.

† *Sic.*

To what places in Scotland this act shall extend.

VII. *How restrained by Two Justices.*

By the 13 Hen. IV. c. 7, s. 1, if any riot, assembly, or rout of people, 13 Hen. 4, c. 7.
 against the law be made, the justices, three or two of them at the least, and the sheriff, or under sheriff, shall come with the power of the county if need be.

And by the 2 Hen. V. c. 8, s. 2, the king's liege people, being sufficient 2 Hen. 5, c. 8.
 to travel, shall be assistants to them, upon reasonable warning, to ride with them in aid to resist such riots, routs, and assemblies, on pain of imprisonment, and to make fine and ransom to the king.

If any Riot, Assembly, or Rout of People, against the Law, be made.]—It is said that the justices are not only empowered hereby to raise the power of the county to assist them in suppressing a riot, which shall happen within their own view or hearing, but also that they may safely do it, upon a credible information given them of a notorious riot happening at a distance, whether there were any such riot in truth or not; for it may be dangerous for them to stay till they can get certain information of the fact: but they seem to be punishable for alarming the country in this manner, without such probable ground for their proceeding as would induce a reasonable man to think it necessary and convenient. (1 *Haw.* c. 65, s. 22.)

Assembly.]—It seems clear from hence, that if the justices, in going towards

7. *How restrained by two Justices.*

the place where they have heard that there is a riot, shall meet persons coming from thence riotously arrayed, they may arrest them for being assembled together in such an unlawful manner, and also make a record thereof; for the statute extends to all other unlawful assemblies whatsoever, as well as to riots. (1 *Haw. c. 65, s. 22.*)

The King's liege People.—Except women, clergymen, persons decrepit, and infants under the age of fifteen.

To resist such Riots.—And also to arrest the rioters, and conduct them to prison.

And shall arrest them.—13 *Hen. IV. c. 7, s. 1.*

And, if they shall escape, they may take them on a fresh pursuit; but they cannot at another time award any process against them on the record, but ought to send the record into the King's Bench, that process may issue thereon from thence: yet there seems to be no doubt but that they may arrest them for their trespass on the aforesaid statute (34 *Edw. III.*), in order to compel them to find sureties for their good behaviour. (1 *Haw. c. 65, s. 24.*)

13 *Hen. 4, c. 7.*

And by the 13 *Hen. IV. c. 7, s. 1*, the same justices and sheriff, or under-sheriff, shall have power to record (a) that which they shall find so done in their presence against the law; by which record the offenders shall be convicted in the same manner and form as is contained in the statute of Forcible Entries (b).

Shall have Power to record.—And this they may do, whether the offenders be in custody at the same time, or have escaped. (1 *Haw. c. 65, s. 24.*)

Shall be convicted.—And it seemeth to be certain that the record of a riot, expressly mentioned to have happened within the view of the justices by whom it is recorded, is a conviction of so great authority, that it can no way be traversed, however little ground of truth there might be to affirm that any riot at all was committed, or however innocent the parties may be of the fact recorded against them. (1 *Haw. c. 65, s. 25.*)

However, it seemeth clear that if, in such a record of a riot, it be contained that the party was guilty therein of a felony, or maim, or rescous, the party shall be concluded thereby as to the riot only, and not as to any of the other matters; because the justices have by this statute a judicial authority over no other offences except riots, routs, and unlawful assemblies. (1 *Haw. c. 65, s. 26.*)

And, inasmuch as such a final record is a conviction of the parties, as to all such matters as are properly contained in it, it ought to be certain both as to the time and place of the offence, and the number of persons concerned therein, and the several kinds of weapons made use of by them, and all other circumstances of the fact: for, since the parties are excluded from denying the truth of such record, and have no other remedy to defend themselves against it, but only by advantage of the insufficiency of what is contained in it, they may justly demand the benefit of excepting to it, if it do not expressly show both that they are guilty within the meaning of the statute, and also how far they are guilty, and that the justices have pursued the power so given them by the said statute. From the same ground it seems also to follow, that such a record may be excepted against, if it do not appear to have been made by the sheriff or under-sheriff, in concurrence with the justices. (1 *Haw. c. 65, s. 26.*)

And this record ought to remain with one of the justices, and shall not be left amongst the records of the sessions; it being made out of sessions, and not appointed to be certified thither. (*Dalt. c. 82.*)

In the same Manner and Form as is contained in the Statute of Forcible Entries.—That is, the statute of the 15 *Rich. II. c. 2*. And thereupon it is said that the offenders, being under the arrest of the justices, and also convicted by a record of their offence, ought immediately to be committed to gaol by the same justices, till they shall make fine and ransom to the king;

(a) Form, *post*, No. 6.

(b) Form, *post*, No. 7.

which can be assessed by no other justices of the peace except those by whom the record of the offence was made. (1 *Haw. c. 65, s. 28.*) 7. *How restrained by two Justices.*

And this fine, *Mr. Dalton* (c. 82) says, the justices shall cause to be estreated into the Exchequer, that so it may be levied to the king's use; and then they are to deliver the offenders again.

But *Mr. Hawkins* says, that it hath been questioned whether the justices can safely dismiss the offenders upon their paying such a fine as shall be imposed upon them, without some judgment for their imprisonment as well as fine: because it is enacted by the 2 Hen. VIII. c. 8, that such rioters attainted of great and heinous riots shall have one whole year's imprisonment at the least, without being let out of prison by bail or mainprize; and that the rioters attainted of petty riots shall have imprisonment as best shall seem to the king or to his council. (1 *Haw. c. 65, s. 35.*)

And, by the 13 Hen. IV. c. 7, s. 1, if the offenders be departed before the coming of the said justices and sheriff, or under-sheriff, the same justices, three or two of them, shall diligently inquire (a) within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to the law of the land. 13 Hen. 4, c. 7.

The same Justices.—It is generally said that any justices of the county may take such an inquiry, whether they dwell near the place where the riot happened, or at a distance, or whether they went to view the riot or not: for the statute ought to be construed as largely as the words will bear in favour of the justices' power in the suppressing of such riots; and therefore those words in the statute, "that the same justices shall inquire," ought to be thus expounded: that the same justices who were before empowered to raise the posse shall inquire, and that is, any justices in the county. (1 *Haw. c. 65, s. 32.*)

Shall diligently inquire.—This is, by a jury; in order to which it is enacted by the 19th Hen. VII. c. 13, that the sheriff, on their precept directed to him, shall, on pain of 20*l.*, return twenty-four persons, whereof every of them shall have lands and tenements within the shire to the yearly value of 20*s.* of charter-land or freehold, or 26*s. 8d.* of copyhold, or of both, over and above all charges; and he shall return upon every juror in issues, at the first, 20*s.*, and at the second, 40*s.* 19 Hen. 7, c. 13.

Note.—*Charter-land* had its name from a particular form in the charter or deed, which, ever since the reign of Henry VIII., hath been disused. (1 *Inst. 6.*)

Within a Month.—That is, if they do not make inquiry within a month, they are punishable for the neglect. Yet they may inquire after the month; for the lapse of a month doth not determine their authority, but only subjects them to a penalty. (*R. v. Ingram*, 2 *Salk.* 593; 1 *Lord Raym.* 215, *S. C.*)

Shall hear and determine according to the Law of the Land.—And therefore they may award process under their own teste against those who shall be indicted before them of any of the offences above mentioned, according to the form of this statute; and also may award the like process for the trial of a traverse of such an inquisition; and do all other things in relation thereunto, which are of course incident to all courts of record. (1 *Haw. c. 65, s. 34.*)

And the riot being so found by inquisition, the justices must make a record thereof in writing of such their inquiry or presentment found before them; which record also is to remain with one of the justices. (*Dalt. c. 82.*)

And, by the 13 Hen. IV. c. 7, s. 2, if the truth cannot be found in the manner as is aforesaid, then, within a month then next following, the justices, three or two of them, and the sheriff or under-sheriff, shall certify before the king and his council all the deed and circumstances thereof, which certificate shall be of the like force as the presentment of twelve men; upon which certificate the offender shall be put to answer, and shall be punished according to the discretion of the king and his council. 13 Hen. 4, c. 7.

(a) Form, No. 10, *post.*

8. *How by Process out of Chancery.*

19 Hen. 7, c. 13.

Sect. 3. And, if they do traverse the matter so certified, the certificate and traverse shall be sent into the King's Bench to be tried.

And, by the 19 Hen. VII. c. 13, if the offence be not found, by reason of any maintenance or embracery of the jurors, then the same justices and sheriff, or under-sheriff, shall, in the same certificate, certify the names of the maintainers and embracers, with their misdemeanors.

Shall certify.—And it seemeth certain that such certificate, being in nature of an indictment at the common law, ought to comprehend the certainty of time, place, and persons, and other material circumstances, both of the riot and maintenance. (1 *Haw. c. 65, s. 13.*)

Before the King and his Council.—It seems clear, by the council being here distinguished both from the Chancery and King's Bench, that the certificate ought to be made to the privy council board, and not to either of those courts, which, in some statutes relating to judicial proceedings, are taken for the king's council. (1 *Haw. c. 65, s. 41.*)

2 Hen. 5, c. 8.

And, by the 2 Hen. V. c. 8, the said justices and other officers shall execute their offices aforesaid at the king's costs, in going and continuing in doing their said offices, by payment thereof to be made by the sheriff, by indentures betwixt the said sheriff and justices, and other officers aforesaid, whereof the sheriff, upon his account in the Exchequer, shall have due allowance.

In order to the defraying of which, the said statute directs the fines of the offenders to be enlarged, and thereout the sheriff may pay the charges of the said justices, and of the jury, that is, for their diet, and the sheriff's fees, and the like. (*Dalt. c. 82.*)

Sect. 4. And the justices dwelling nighest in the county where such riot, assembly, or rout shall be, together with the sheriff or under-sheriff, shall do execution of the said statute of the 13 Hen. IV., every one upon pain of 100*l.* to the king.

The Justices dwelling nighest.—Although these only are liable to this penalty, yet if any others, on notice, shall neglect to supply their default, they are fineable at discretion. (1 *Haw. c. 65, s. 48.*)

But if any justices, who do not dwell nearest to the place, do actually execute the statute, they excuse all the rest. (1 *Haw. c. 65, s. 46.*)

Dwelling nighest in the County.—Therefore, if they dwell nighest, but in another county, they are not in danger of this penalty. (1 *Haw. c. 65, s. 45.*)

Shall do Execution of the said Statute.—That is, in the whole, and not in part only; as by recording a riot, and committing the parties. (1 *Haw. c. 65, s. 50.*)

Alehouses.

By the 9 Geo. IV. c. 61, s. 20, and 1 Wil. IV. c. 64, two justices may order the closing of doors of public-houses and beer-houses during riots. (See "*Alehouse*," Vol. I.)

VIII. How by Process out of Chancery.

2 Hen. 5, c. 8.

By the 2 Hen. V. c. 8, if default be found in the two justices, sheriff, or under-sheriff, then, at the instance of the party grieved, a commission shall be issued under the great seal, to inquire as well of the truth of the case for the complainant, as of such default.

2 Hen. 5, c. 9.

8 Hen. 6, c. 14.

And by the 2 Hen. V. c. 9, and 8 Hen. VI. c. 14, rioters shall be taken by writ and proclamation out of chancery, on suggestion of two justices and the sheriff, of the common fame of such riot.

IX. Seditious Meetings and Unlawful Assemblies.

39 Geo. 3, c. 79.
Certain societies
suppressed.

By the 39 Geo. III. c. 79, s. 1, after reciting that a traitorous conspiracy had long been carried on in conjunction with the person exercising the

powers of government in France, to overturn the laws and government in Great Britain and Ireland, it is enacted, that all societies, calling themselves United Englishmen, United Scotchmen, United Irishmen, and United Britons, and the society commonly called the London Corresponding Society, and all other corresponding societies of any other city, town, or place, shall be suppressed and prohibited. (See the 57 Geo. III. c. 19, *post*, 349.)

9. Seditious Meetings, &c.

39 Geo. 3, c. 79.

Sect. 2. "From and after the passing of this act, all and every the said societies, and also every other society now established, or hereafter to be established, the members whereof shall, according to the rules thereof, or to any provision or agreement for that purpose, be required or admitted to take any oath or engagement, which shall be an unlawful oath or engagement within the intent and meaning of an act, passed in the thirty-seventh year of his majesty's reign, intituled, 'An Act for more effectually preventing the administering or taking of Unlawful Oaths,' [see this act, title "**Oaths**," Vol. III.] or to take any oath not required or authorized by law; and every society, the members whereof, or any of them, shall take, or in any manner bind themselves by any such oath or engagement, on becoming or in consequence of being members of such society; and every society, the members whereof shall take, subscribe, or assent, to any test or declaration not required by law, or not authorized in manner hereinafter mentioned; and every society, of which the names of the members, or of any of them, shall be kept secret from the society at large, or which shall have any committee or select body so chosen or appointed, that the members constituting the same shall not be known by the society at large to be members of such committee or select body, or which shall have any president, treasurer, secretary, delegate, or other officer so chosen or appointed, that the election or appointment of such persons to such offices shall not be known to the society at large, or of which the names of all the members, and of all committees or select bodies of members, and of all presidents, treasurers, secretaries, delegates, and other officers, shall not be entered in a book or books to be kept for that purpose, and to be open to the inspection of all the members of such society; and every society which shall be composed of different divisions or branches, or of different parts, acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate, or other officer, elected or appointed by or for such part, or to act as an officer for such part; shall be deemed and taken to be unlawful combinations and confederacies; and every person who, from and after the passing of this act, shall become a member of any such society, or who, being a member of any such society at the passing of this act, shall afterwards act as a member thereof; and every person who, after the passing of this act, shall directly or indirectly maintain correspondence or intercourse with any such society, or with any division, branch, committee, or other select body, president, treasurer, secretary, delegate, or other officer, or member thereof as such, or who shall, by contribution of money or otherwise, aid, abet, or support such society, or any members or officers thereof as such; shall be deemed guilty of an unlawful combination and confederacy."

All societies shall be deemed unlawful, the members whereof shall be required to take any oath unlawful under 37 Geo. 3, c. 123, or any oath, test, &c., not authorized by law; or which shall have any members, committees, &c., not known to the society at large; or the names of all the members whereof shall not be entered in regular books; or which shall act in separate or distinct branches; and members thereof, and persons corresponding with or supporting them, guilty of an unlawful combination.

Sect. 3. "Nothing herein contained shall extend to any declaration to be taken, subscribed, or assented to by the members of any society, in case the form of such declaration shall have been first approved and subscribed by two or more of his majesty's justices of the peace for the county, stewartry, riding, division, or place, where such society shall ordinarily assemble, and shall have been registered with the clerk of the peace, or his deputy, for such county, stewartry, riding, division, or place, for which there shall be paid a fee of 1s. and no more; but that such approbation of the justices as aforesaid shall remain valid and effectual no longer than until the next general session for such county, stewartry, riding, division, or place, unless the same shall, on application made by the parties concerned, be confirmed by the major part of the justices present at such general session; and if the same shall not be then and there so confirmed, the provisions of this act shall from thenceforth extend to such declaration, and to all societies or persons sub-

Act shall not extend to declarations approved by two justices, and registered with the clerk of the peace; provided such approbation be confirmed at the next general quarter sessions.

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39 Geo. 3, c. 79.

Former members not acting after passing this act, not liable to penalty.

Not to extend to regular lodges of Freemasons held before passing of this act ;

but two members of each lodge shall certify the same on oath, and deposit such certificate within two months with the clerk of the peace, with whom the name of the society, the names of the members, and the time and place of meeting, shall be registered before March 25, yearly.

Clerk of peace to lay such certificate and registry before the general session yearly, who may order any lodge to be discontinued, if likely to be injurious to the public peace.

Justices on oath of an unlawful meeting being held, may declare the licence of the house forfeited (a).

scribing the same, in so far as may relate to all acts which may be done by them, or any of them, subsequent to the holding of such general session."

Sect. 4. "No person who, at or before the passing of this act, shall be, or shall have been a member of any such society, shall be liable to any pain or penalty for having been a member of such society at or before the passing of this act, in case such person shall not in any manner act as a member of such society at any time after the passing of this act."

Sect. 5. "And whereas certain societies have been long accustomed to be holden in this kingdom under the denomination of lodges of Freemasons, the meetings whereof have been in great measure directed to charitable purposes ;" it is enacted, "that nothing in this act shall extend to the meetings of any such society or lodge, which shall, before the passing of this act, have been usually holden under the said denomination and in conformity to the rules prevailing among the said societies of Freemasons."

Sect. 6. "This exemption shall not extend to any such society, unless two of the members composing the same shall certify, upon oath, (which oath any justice of the peace or other magistrate is hereby empowered to administer,) that such society or lodge has, before the passing of this act, been usually held under the denomination of a lodge of Freemasons, and in conformity to the rules prevailing among the societies or lodges of Freemasons in this kingdom ; which certificate, duly attested by the magistrate before whom the same shall be sworn, and subscribed by the person so certifying, shall, within the space of two calendar months after the passing of this act, be deposited with the clerk of the peace for the county, stewartry, riding, division, shire, or place, where such society or lodge hath been usually held : provided, also, that this exemption shall not extend to any such society or lodge, unless the name or denomination thereof, and the usual place or places, and the time or times of its meetings, and the names and descriptions of all and every the members thereof, be registered with such clerk of the peace as aforesaid, within two months after the passing of this act, and also on or before the twenty-fifth day of March in every succeeding year."

Sect. 7. "The clerk of the peace, or the person acting in his behalf, in any such county, stewartry, riding, division, shire, or place, is hereby authorized and required to receive such certificate, and make such registry as aforesaid, and to enrol the same among the records of such county, stewartry, riding, division, shire, or place, and to lay the same, once in every year, before the general session of the justices for such county, stewartry, riding, division, shire, or place ; and that it shall and may be lawful for the said justices, or for the major part of them, at any of their general sessions, if they shall so think fit, upon complaint made to them, upon oath, by any one or more credible persons, that the continuance of the meetings of any such lodge or society is likely to be injurious to the public peace and good order, to direct that the meetings of any such society or lodge within such county, stewartry, riding, division, shire, or place, shall from henceforth be discontinued ; and any such meeting held, notwithstanding such order of discontinuance, and before the same shall, by the like authority, be revoked, shall be deemed an unlawful combination and confederacy under the provisions of this act."

Sect. 14. "It shall be lawful for any two or more justices of the peace, acting for any county, stewartry, riding, division, city, town, or place, upon evidence on oath, that any meeting of any society, hereby declared to be an unlawful combination and confederacy, or any meeting for any seditious purpose, hath been held, after the passing of this act, at any house, room, or place, licensed for the sale of ale, beer, wine, or spirituous liquors, to adjudge and declare the licence or licences for selling ale, beer, wine, or spirituous liquors, granted to the person or persons keeping such house, room, or place, to have been forfeited ; and the person or persons so keeping such house,

(a) See Form, No. 11, *post*.

room, or place, shall, from and after the day of the date of such adjudication and declaration, be subject and liable to all and every the penalties and forfeitures for any act done after that day, which such person or persons would be subject and liable to, if such licence or licences had expired, or otherwise determined on that day."

Sect. 15. "And whereas divers places have of late been used for delivering lectures or discourses, and holding debates, which are not within the provisions of the act, passed in the 36th year of his majesty's reign, for the more effectually preventing seditious meetings and assemblies (a), but which lectures, discourses, or debates, have in many instances been of a seditious and immoral nature; and other places for the purpose of reading books, pamphlets, newspapers, or other publications; be it further enacted, that every house, room, field, or other place, at or in which any lecture or discourse shall be publicly delivered, or any public debate shall be had on any subject whatever, for the purpose of raising or collecting money or any other valuable thing from the persons admitted, or to which any person shall be admitted by payment of money, or by any ticket or token of any kind delivered in consideration of money or any other valuable thing, or in consequence of paying or giving, or having paid or given, or having agreed to pay or give, in any manner, any money or other valuable thing, or where any money or other valuable thing shall be received from any person admitted either under pretence of paying for any refreshment or other thing, or under any other pretence, or for any other cause, or by means of any device or contrivance whatever; and every house, room, or place, which shall be opened or used as a place of meeting, for the purpose of reading books, pamphlets, newspapers, or other publications, and to which any person shall be admitted by payment of money, or by any ticket or token of any kind delivered in consideration of money or other valuable thing, or in consequence of paying or giving, or having paid or given, or having agreed to pay or give, any money, or other valuable thing, or where any money or other valuable thing shall be received from any person admitted either under pretence of paying for any refreshment or other thing, or under any other pretence, or for any other cause, or by means of any device or contrivance whatever; shall be deemed a disorderly house or place, within the intent and meaning of the said act, passed in the 36th year of his majesty's reign, for the more effectually preventing seditious meetings and assemblies, unless the same shall have been previously licensed in manner hereinafter mentioned; and the person by whom such house, room, field, or place, shall be opened or used, for any of the purposes aforesaid, shall forfeit the sum of 100*l.* for every day or time that such house, room, field, or place, shall be opened or used as aforesaid to such person as shall sue for the same, and be otherwise punished as the law directs in cases of disorderly houses; and every person managing or conducting the proceedings, or acting as moderator, president, or chairman, at such house, room, field, or place, so opened or used as aforesaid, or therein debating, or delivering any discourse or lecture, or furnishing or delivering any book, pamphlet, newspaper, or other publication as aforesaid; and also every person who shall pay, give, collect, or receive, or agree to pay, give, collect or receive, any money, or any thing, for or in respect of the admission of any person into any such house, room, field, or place, or shall deliver out, distribute, or receive any such ticket or tickets, or token or tokens as aforesaid, knowing such house, room, field, or place to be opened or used for any such purpose aforesaid, shall, for every such offence, forfeit the sum of 20*l.*"

Sect. 16. "Any person who shall at any time hereafter appear, act, or behave him or herself as master or mistress, or as the person having the command, government, or management of any such house, room, field, or place

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39 Geo. 3, c. 79.

Every place for lecturing, debating, or reading books, newspapers, &c., where money shall be paid, shall be deemed a disorderly house under 36 Geo. 3, c. 8, unless previously licensed.

Penalty on persons opening such houses, conducting the proceedings, debating, furnishing books, paying or collecting money for admission, &c., 20*l.*

Person appearing as master liable to prosecution, although not the real occupier of the house.

(a) This act of 36 Geo. III. c. 8, was the end of the then next session of parliament. to continue for three years, from the 18th of December, 1795, and from thence to

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39 Geo. 3, c. 79.

Justices, by information on oath, suspecting any place is opened for lecturing, &c., may demand admittance, and if refused, the place shall be deemed disorderly, and the person so refusing shall forfeit 20*l*.

Two justices in session may grant licences for lecturing or reading, which may be revoked at any general session.

A justice may demand admittance to any licensed place, and if refused, it shall be deemed disorderly, and the person so refusing shall forfeit 20*l*.

Any two justices on evidence on oath that any

as aforesaid, shall be deemed and taken to be a person by whom the same is opened and used as aforesaid, and shall be liable to be sued or prosecuted, and punished as such, notwithstanding he or she be not in fact the real owner or occupier thereof."

Sect. 17. "It shall be lawful for any justice or justices of the peace of any county, stewardry, city, borough, town, or place, who shall, by information upon oath, have reason to suspect that any house, room, field, or place, or any parts or part thereof, are or is opened or used for the purpose of delivering lectures or discourses, or for public debate, or for the purpose of reading books, pamphlets, newspapers, or other publications, contrary to the provisions of this act, to go to such house, room, field, or place, and demand to be admitted therein; and in case such justice or justices shall be refused admittance to such house, room, field, or place, or any part thereof, the same shall be deemed a disorderly house or place, within the intent and meaning of this act, and of the said recited act of the 36th year aforesaid [chap. 8, *ante*, 345]; and all and every the provisions hereinbefore, and in the said recited act contained, respecting any house, room, field, or place, therein or hereinbefore declared to be a disorderly house or place, shall be applied to such house, room, field, or place, where such admittance shall have been refused as aforesaid; and every person refusing such admittance shall forfeit the sum of 20*l*."

Sect. 18. "It shall be lawful for two or more justices of the peace for the county, stewardry, city, borough, town, or place, where any house, room, or other building, shall be intended to be opened for any of the purposes aforesaid, by writing under their hands and seals, at their general sessions of the peace, or at any special session to be held for the particular purpose, to grant a licence to any person or persons desiring the same, to open such house, room, or other building, for the purpose of delivering for money any such lectures or discourses as aforesaid, on any subjects, the same being clearly expressed in such licence, or for the purpose of reading books, pamphlets, newspapers, or other publications; for which licence a fee of 1*s*., and no more, shall be paid, and the same shall be in force for the space of one year, and no longer, or for any less space of time, therein to be specified; and which licence it shall be lawful for the justices of the peace of the same county, stewardry, city, borough, town, or place, at any general sessions of the peace, to revoke and declare void, and no longer in force, by any order of such justices; a copy whereof shall be delivered to, or served upon the person to whom the said licence so revoked shall have been granted, or shall be left at the house, room, or building, for which such licence shall have been granted; and thereupon such licence shall cease and determine, and be thenceforth utterly void and of no effect."

Sect. 19. "It shall be lawful for any justice or justices of the peace of any county, stewardry, city, borough, town, or place, where any such house, room, or other building shall be licensed, as herein provided, to go to such house, room, or building, so licensed, at the time of delivering any such lecture or discourse therein as aforesaid, or at the time appointed for delivering any such lecture or discourse, or whilst such house, room, or building shall be opened or used, or during the time appointed for using the same as a place for reading books, pamphlets, newspapers, or other publications as aforesaid, and demand to be admitted therein; and in case such justice or justices shall be refused admittance to such house, room, or building, the same shall be deemed, notwithstanding any such licence as aforesaid, a disorderly house or place within the meaning of this act; and all and every the provisions hereinbefore contained, respecting any house, room, field, or place, hereinbefore declared to be a disorderly house or place, shall be applied to such house, room, or building so licensed as aforesaid, where such admittance shall have been refused as aforesaid; and every person refusing such admittance shall forfeit the sum of 20*l*."

Sect. 20. "It shall be lawful for any two justices of the peace acting for any county, stewardry, riding, division, city, town, or place, upon evidence, on oath, that any house, room, or place, so licensed and opened as afore-

said, is commonly used for the purpose of delivering there lectures or discourses of a seditious or immoral tendency, or that books, pamphlets, newspapers, or other publications of a seditious or immoral nature, are there commonly kept and delivered to be read, to adjudge and declare the licence for opening the same to have been forfeited; and such licence shall thereupon cease and determine, and shall thenceforth be utterly void and of no effect."

Sect. 21. "Every house, room, or place, licensed for the sale of ale, beer, wine, or spirituous liquors, shall also be deemed a house or place licensed for the purpose of reading books, pamphlets, and other publications, within the intent and meaning of this act; but nevertheless it shall be lawful to and for any two or more justices of the peace for the county, stewartry, riding, division, city, borough, town, or place, where such house, room, or place shall be, upon evidence on oath that books, pamphlets, or other publications of a seditious or immoral nature are usually distributed, for the purpose of being read at such house, room, or place, to adjudge and declare the licence or licences for selling ale, beer, wine, or spirituous liquors, under the authority whereof such house, room, or place shall be used for the purpose of selling ale, beer, wine, or spirituous liquors, to have been forfeited [Form No. 11, *post*], and the person or persons so keeping such house, room, or place, shall, from and after the day of the date of such adjudication and declaration, be subject and liable to all and every the penalties and forfeitures which such person or persons would be subject and liable to, if such licence or licences had expired, or otherwise determined, on that day, for any act done after that day."

Sect. 22. "Nothing in this act contained shall extend or be construed to extend to any lecture or discourses to be delivered in any of the universities of these kingdoms, by any member thereof, or any person authorized by the chancellor, vice-chancellor, or other proper officers of such universities respectively, or to any lecture or discourse to be delivered in the public hall of any of the inns of court or chancery, by any person authorized by the benchers of the inns of court, or by the professors in Gresham College; and that no payment made to any schoolmaster, or other person by law allowed to teach and instruct youth, in respect of any lectures or discourses delivered by such schoolmaster, or other person, for the instruction only of such youth as shall be committed to his instruction, shall be deemed a payment of money for admission to such lectures or discourses, within the intent and meaning of this act."

Sect. 13. "If any person shall knowingly permit any meeting of any society hereby declared to be an unlawful combination or confederacy, or of any division, branch or committee of such society, to be held in his or her house or apartment, such person shall, for the first offence, forfeit the sum of 5*l.*, and shall, for any such offence committed after the date of his or her conviction for such first offence, be deemed guilty of an unlawful combination and confederacy in breach of this act."

Sect. 8. "Every person who, at any time after the passing of this act, shall in breach of the provisions thereof, be guilty of any such unlawful combination and confederacy, as in this act is described, shall and may be proceeded against for such offence in a summary way, either before one or more justice or justices of the peace for the county, stewartry, riding, division, city, town, or place, where such person shall happen to be, or by indictment to be preferred in the county, riding, division, city, town, or place in England wherein such offence shall be committed, or by indictment in the court of justiciary, or in any of the circuit courts in Scotland, if the offence shall be committed in Scotland; and every person being convicted [Form No. 12, *post*] of any such offence, on the oath of one or more credible witness or witnesses, by such justice or justices as aforesaid, shall be by him or them committed to the common gaol or house of correction for such county, stewartry, riding, division, city, town, or place, there to remain, without bail or mainprize, for the term of three calendar months, or shall be by such justice or justices adjudged to forfeit and pay the sum of 20*l.*, as to

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39 Geo. 3, c. 79.

licensed place is used for lectures of a seditious or immoral tendency, &c., may declare the licence forfeited.

Every alehouse, &c., to be deemed licensed for reading; but two justices, on evidence on oath that seditious or immoral publications are read, may declare the licence forfeited.

Not to extend to lectures delivered in the universities, or the hall of any of the inns of court, &c., or by the professors in Gresham College. Payments to schoolmasters not deemed payments for admission to lectures.

Penalty for permitting unlawful meetings.

Offenders may be proceeded against, either summarily before one justice, or by indictment.

Persons convicted before a justice shall forfeit 20*l.*, or suffer three months' imprisonment, and persons convicted on indictment shall

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39 Geo. 3, c. 79.

be transported
for seven years.Justices may miti-
gate punish-
ment.Persons prose-
cuted either be-
fore a justice, or
indicted, not
liable to other
prosecution.Offenders may be
indicted as here-
tofore, if not pro-
secuted under
this act.Prosecutions to
be commenced
within three
months after pe-
nalty is incurred.
Recovery of pe-
nalties.

such justice or justices shall seem meet; and in case such sum of money shall not be forthwith paid into the hands of such justice or justices, he or they shall, by warrant under his or their hand and seal, or hands and seals, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and for want of sufficient distress, shall commit such offender to the common gaol or house of correction of such county, stewartry, riding, division, city, town, or place as aforesaid, for any time not exceeding three calendar months; and every person convicted of any such offence upon indictment by due course of law, shall and may be transported for the term of seven years, in the manner provided by law for transportation of offenders, or imprisoned for any time not exceeding two years, as the court before whom such offender shall be tried shall think fit; and every such offender who shall be ordered to be transported, shall be subject and liable to all laws concerning offenders ordered to be transported."

Sect. 9. "It shall be lawful for the justice or justices of the peace, by or before whom any persons shall, in pursuance of this act, be convicted of any unlawful combination or confederacy, and such justice and justices is and are hereby authorized and empowered (if he or they shall see cause) to mitigate and lessen the punishment hereinbefore directed to be inflicted upon any offender against this act, so convicted as aforesaid, so as such punishment be not thereby reduced to less than one-third of the punishment hereby directed to be inflicted as aforesaid, whether such punishment shall be by imprisonment or fine."

Sect. 10. "Any person who shall be prosecuted before any justice or justices of the peace, in a summary way, for any offence against this act, and shall be convicted or acquitted by such justice or justices, shall not afterwards be prosecuted, or be liable to be prosecuted, by indictment or otherwise, for the same offence; and so in like manner any person who shall be convicted or acquitted upon any indictment for any offence against this act, shall not afterwards be prosecuted, or be liable to be prosecuted, before any justice or justices of the peace, in a summary way, for the same offence."

Sect. 11. "Nothing in this act contained shall extend to prevent any prosecution by indictment, or otherwise, for any thing which shall be an offence within the intent and meaning of this act, and which might have been so prosecuted if this act had not been made, unless the offender shall have been prosecuted for such offence under this act, and convicted or acquitted of such offence; save only, that no person shall be prosecuted for having been, before the passing of this act, a member of any such society hereby declared to be an unlawful combination and confederacy, if such person shall not in any manner have acted as a member of such society after the passing of this act."

Sect. 34. "No person shall be prosecuted or sued for any penalty imposed by this act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred."

Sect. 35. "Any pecuniary penalty imposed by this act, exceeding the sum of 20*l.*, may be sued for and recovered, by any person who will sue for the same, by action of debt, in any of his majesty's courts of record at Westminster, if such penalty shall have been incurred in England or Wales, or the town of Berwick-upon-Tweed, and in his majesty's Court of Exchequer in Scotland, if such penalty shall have been incurred in Scotland; in which action it shall be sufficient to declare or allege that the defendant is indebted to the plaintiff in the sum of 20*l.* (being the sum demanded by such action), being forfeited by an act made and passed in the 39th year of the reign of his majesty king George the Third, intituled, 'An Act' [here set forth the title of the act], and the plaintiff, if he shall recover in any such action, shall have his full costs; and any pecuniary penalty imposed by this act, and not exceeding the sum of 20*l.*, and for the recovery whereof no provision is hereinbefore contained, shall and may be recovered before any justice or justices of the peace for the county, stewartry, riding, division, city, town,

or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way; and in case such last-mentioned penalty shall not be forthwith paid, such justice or justices shall, by warrant under his or their hand and seal, or hands and seals, and directed to any constable or other peace-officer, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices shall commit the offender to the common gaol or house of correction for such county, stewartry, riding, division, city, borough, town, or place, there to remain, without bail or mainprize, for any time not exceeding six calendar months, nor less than three calendar months."

Sect. 36. "All pecuniary penalties and forfeitures imposed by this act shall, when recovered, either by action in any court, or in a summary way before any justice, be applied and disposed of in a manner hereinafter mentioned; that is to say, one moiety thereof to the plaintiff in any such action, or the informer before any justice, and the other moiety thereof to his majesty, his heirs, and successors."

Sect. 37. "Every action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace-officer, or other person or persons, for any thing done or acted in pursuance of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs; which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."

Sect. 38. "That convictions by any justice or justices of the peace, for offences against this act, and adjudications of forfeitures of licences to be made in pursuance of this act, and notices and certificates delivered and granted in pursuance of this act, shall or may be in the several forms [Forms No. 12, 13, *post*] set forth for such purposes respectively in the schedule to this act annexed."

By the 57 Geo. III. c. 19, s. 23 (*a*), reciting, that "it is highly inexpedient that public meetings or assemblies should be held near the houses of Parliament, or near his majesty's courts of justice in Westminster Hall, on such days as are hereinafter mentioned," it is enacted, "that it shall not be lawful for any person or persons to convene or call together, or to give any notice for convening or calling together, any meeting of persons consisting of more than fifty persons, or for any number of persons exceeding fifty, to meet in any street, square, or open place, in the city or liberties of Westminster, or county of Middlesex, within the distance of one mile from the gate of Westminster Hall, save and except such parts of the parish of St. Paul Covent Garden as are within the said distance, for the purpose or on the pretext of considering of or preparing any petition, complaint, remonstrance, declaration, or other address, to the king, or to his Royal Highness the Prince Regent, or to both houses or either house of Parliament, for alteration of matters in church or state, on any day on which the two houses or

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39 Geo. 3, c. 79.

Application of penalties.

Limitation of actions.

General issue.

Venue.

Double costs.

Convictions, &c., to be in the forms in the annexed schedule (Nos. 1, 2, 3.)

Regulating the place of public meetings in Westminster.

(*a*) By sect. 22, the clauses and provisions of the act thereinbefore contained were to continue in force until the 24th of July, 1818.

9. *Seditious Meetings, &c.*

57 Geo. 3, c. 19.

Proviso for meetings convened for election of members of Parliament.

Spencean societies or clubs, &c., suppressed and prohibited.

Societies taking unlawful oaths, &c., within

37 Geo. 3, 123,

52 Geo. 3, c. 104,

or requiring &c., tests or declarations not required

either house of Parliament shall meet and sit, or shall be summoned, or adjourned, or prorogued to meet or sit, nor on any day on which his majesty's Courts of Chancery, King's Bench, Common Pleas, and Exchequer, or any of them, or any judge of any of them, shall sit in Westminster Hall, any thing hereinbefore contained to the contrary notwithstanding; and that if any meeting or assembly, for the purposes or on the pretexts aforesaid, of any persons shall be assembled or holden on any such day, contrary to the intent and meaning of this enactment, such meeting or assembly shall be deemed and taken to be an unlawful assembly, by whomsoever, or in consequence of what notice soever, such meeting or assembly shall have been holden: provided that nothing in this enactment contained shall, by any construction whatever, be deemed or taken to apply to or affect any meeting convened, called, or holden for the election of members of Parliament, or any persons attending such meeting, or to any persons attending upon the business of either house of Parliament, or any of the said courts."

Sect. 24, after reciting, that "divers societies or clubs have been instituted in the metropolis, and in various parts of this kingdom, of a dangerous nature and tendency, inconsistent with the public tranquillity, and the existence of the established government, laws, and constitution of the kingdom, and the members of many such societies or clubs have taken unlawful oaths and engagements of fidelity and secrecy, and have taken or subscribed, or assented to, illegal tests and declarations; and many of the said societies or clubs elect, appoint, or employ committees, delegates, representatives, or missionaries, of such societies or clubs, to meet, confer, communicate, or correspond, with other societies or clubs, or with delegates, representatives, or missionaries of such other societies or clubs, and to induce and persuade other persons to become members thereof, and, by such means, maintain an influence over large bodies of men, and delude many ignorant and unwary persons into the commission of acts highly criminal; and whereas certain societies or clubs, calling themselves *Spenceans*, or *Spencean Philanthropists*, hold and profess for their object the confiscation and division of the land, and the extinction of the funded property of the kingdom; and whereas it is expedient and necessary that all such societies and clubs, as aforesaid, should be utterly suppressed and prohibited, as unlawful combinations and confederacies, highly dangerous to the peace and tranquillity of this kingdom, and to the constitution of the government thereof, as by law established;" enacts, "that from and after the passing of this act, all societies or clubs calling themselves *Spenceans* or *Spencean Philanthropists*, and all other societies or clubs, by whatever name or description the same are called or known, who hold and profess, or who shall hold and profess, the same objects and doctrines, shall be, and the same are hereby, utterly suppressed and prohibited, as being unlawful combinations and confederacies against the government of our sovereign lord the king, and against the peace and security of his majesty's liege subjects."

Sect. 25. "From and after the passing of this act, all and every the said societies or clubs, and also all and every other society or club, now established or hereafter to be established, the members whereof shall be required or admitted to take any oath or engagement which shall be an unlawful engagement within the meaning of an act passed in the thirty-seventh year of his majesty's reign, intituled, 'An Act for more effectually preventing the Administering and Taking of Unlawful Oaths,' or within the meaning of an act passed in the fifty-second year of his present majesty's reign, intituled, 'An Act to render more effectual an Act passed in the Thirty-seventh year of his present Majesty, for preventing the Administering and Taking of Unlawful Oaths,' or to take any oath not required or authorized by law; and every society or club, the members whereof, or any of them, shall take or in any manner bind themselves by any such oath or engagement, on becoming, or in order to become, or in consequence of being, a member or members of such society or club; and every society or club, the members or any member whereof shall be required or admitted to take, subscribe, or assent to, or shall take, subscribe, or assent to, any test or

declaration not required or authorized by law, in whatever manner or form such taking or assenting shall be performed, whether by words, signs, or otherwise, either on becoming, or in order to become, or in consequence of being, a member or members of any such society or club; and every society or club that shall elect, appoint, nominate, or employ, any committee, delegate or delegates, representative or representatives, missionary or missionaries, to meet, confer, or communicate with any other society or club, or with any committee, delegate or delegates, representative or representatives, missionary or missionaries, of such other society or club, or to induce or persuade any person or persons to become members thereof, shall be deemed and taken to be unlawful combinations and confederacies, within the meaning of an act passed in the thirty-ninth year of the reign of his present majesty, intituled, 'An Act for the more effectual Suppression of Societies established for Seditious and Treasonable Purposes, and for better preventing Treasonable and Seditious Practices;' and shall and may be prosecuted, proceeded against, and punished, according to the provisions of the said act; and every person who, from and after the passing of this act, shall become a member of any such society or club, or who, after the passing of this act, shall act as a member thereof, and every person who, from and after the passing of this act, shall directly or indirectly maintain correspondence or intercourse with any such society or club, or with any committee or delegate, representative or missionary, or with any officer or member thereof, as such, or who shall, by contribution of money or otherwise, aid, abet, or support such society or club, or any members or officers thereof, as such, shall be deemed guilty of an unlawful combination and confederacy within the intent and meaning of the said act passed in the thirty-ninth year of his majesty's reign, 'For the more effectual Suppression of Societies established for Seditious and Treasonable Purposes, and for better preventing Treasonable and Seditious Practices;' and shall and may be proceeded against, prosecuted, and punished, according to the provisions of the said act, with regard to the prosecution and punishment of unlawful combinations and confederacies."

Sect. 26. "Nothing in this act contained shall extend, or be construed to extend, to any society or societies holden under the denomination of lodges of Freemasons, in conformity to the rules prevailing in such societies of Freemasons, provided such lodges shall comply with the rules and regulations contained in the said act of the thirty-ninth year of his present majesty, relating to such lodges of Freemasons; nor to any declaration to be taken, subscribed, or assented to by the members of any society, the form of which declaration shall have been first approved and subscribed by two or more justices of the peace, and confirmed by the major part of the justices present at a general session, or at a general quarter sessions of the peace, pursuant to the rules and regulations contained in the said act of the thirty-ninth year of his present majesty; nor shall extend or be construed to extend to any meeting or society of the people commonly called Quakers; or to any meeting or society formed or assembled for the purposes of a religious or charitable nature only, and in which no other matter or business whatsoever shall be treated of or discussed."

Sect. 27. "And whereas in the said act of the thirty-ninth year of the reign of his present majesty, it is amongst other things enacted, 'That every society which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate, or other officer elected or appointed by or for such part, or to act as an officer for such part, shall be deemed and taken to be unlawful combinations and confederacies;' " it is enacted, "that the said enactment shall not extend or be construed to extend to any meeting or society of the people commonly called Quakers, or to any meeting or society formed or assembled for purposes of a religious or charitable nature only, and in which no other matter or business whatsoever shall be treated of or discussed."

9. Seditious Meetings, &c.

57 Geo. 3, c. 19.

by law, or electing committees, delegates, &c., deemed guilty of unlawful combinations within

39 Geo. 3, c. 79.

Persons becoming members of such societies, &c.,

deemed guilty of unlawful combinations within 39 Geo. 3, c. 79, and proceeded against accordingly.

Proviso for free-masons' lodges, and for declarations approved by two justices, pursuant to 39 Geo. 3, c. 79, and for meetings or societies of Quakers, or for charitable purposes.

39 Geo. 3, c. 79, s. 2, not to extend to Quakers' meetings, &c.

9. *Seditious Meetings, &c.*

57 Geo. 3, c. 19.

Person permitting unlawful assemblies in his house, &c.

Combination.

Licences of public-houses where unlawful clubs are held to be forfeited,

and penalty.

Penalties exceeding 20*l.*, how to be recovered.

57 Geo. 3, c. 19.

Penalties not exceeding 20*l.*, how to be recovered.

Distress.

Limitation of prosecution for penalty.

Application of penalties.

Sect. 28. "If any person shall knowingly permit any meeting of any society or club hereby declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society or club, to be held in any house or apartment, building, or other place to him or her belonging, or in his or her possession or occupation, such person shall, for the first offence, forfeit the sum of 5*l.*, and shall for any such offence, committed after the date of his or her conviction for such first offence, be deemed guilty of an unlawful combination and confederacy, in breach of this act."

Sect. 29. "It shall be lawful for any two or more justices of the peace, acting for any county, stewartry, riding, division, city, town, or place, upon evidence on oath that any meeting of any society or club hereby declared to be an unlawful combination and confederacy, or any meeting for any seditious purpose, hath been held, after the passing of this act, at any house, room, or place, licensed for the sale of ale, beer, wine, or spirituous liquors, with the knowledge and consent of the person keeping such house, room, or place, to adjudge and declare the licence or licences for selling ale, beer, wine, or spirituous liquors, granted to the person or persons keeping such house, room, or place, to be forfeited; and the person or persons so keeping such house, room, or place, shall, from and after the day of the date of such adjudication and declaration, and notice thereof given to him, her, or them, be subject and liable to all and every the penalties and forfeitures for any act done after that day, which such person or persons would be subject and liable to, if such licence or licences had expired, or otherwise determined on that day."

Sect. 30. "All or any of the pecuniary fines, penalties, or forfeitures, exceeding the sum of 20*l.*, incurred under this act, in England, Wales, or Berwick-upon-Tweed, may be recovered by action of debt in any of his majesty's courts of record at Westminster, and in Scotland in the Court of Session there; and it shall be sufficient to declare in England or conclude in Scotland, that the defendant or defender is indebted to the plaintiff or pursuer in the sum of (being the sum demanded by the said action), being forfeited by an act made in the fifty-seventh year of the reign of his present majesty, intituled, 'An Act for the more effectual preventing Seditious Meetings and Assemblies;' and the plaintiff or pursuer, if he shall recover in such action, shall have his full costs or expenses; and any pecuniary penalty imposed by this act not exceeding the sum of 20*l.*, and for the recovery whereof no provision is hereinbefore contained, shall and may be recovered before any justice or justices of the peace for the county, stewartry, riding, division, city, town, or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way: and in case such last-mentioned penalty shall not be forthwith paid, such justice or justices shall, by warrant under his or their hand and seal or hands and seals, and directed to any constable or other peace officer, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices shall commit the offender to the common gaol or house of correction for such county, stewartry, riding, division, city, borough, town, or place, there to remain without bail or mainprize, for any time not exceeding six calendar months, nor less than three calendar months: provided always, that no person shall be prosecuted or sued for any pecuniary penalty imposed by this act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred."

Sect. 31. "All pecuniary penalties and forfeitures imposed by this act shall, when recovered, either by action in any court, or in a summary way before any justice, be applied and disposed of in manner hereinafter mentioned; that is to say, one moiety thereof to the plaintiff in any such action, or to the informer before any justice, and the other moiety thereof to his majesty, his heirs and successors."

Sect. 32. "Any action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace-officer, or other person or persons, in England, Wales, or the town of Berwick-upon-Tweed, for any thing done or acted in pursuance of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs; which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."

9. *Seditious Meetings, &c.*

57 Geo. 3, c. 19.

Limitation of actions.

General issue may be pleaded.

Double costs.

Sect. 33. "Every action and suit which shall be brought or commenced against any person or persons in Scotland, for any thing done or acted in pursuance of this act, shall in like manner be commenced within three calendar months after the fact committed, and not afterwards, and shall be brought in the court of session in Scotland; and the defender or defenders may plead that the matter complained of was done in pursuance of this act, and may give this act and the special matter in evidence; and if such action or suit shall be brought or commenced after the time limited for bringing the same, then the same shall be dismissed; and in such case, or if the defender or defenders shall be assoilzied, or the pursuer or pursuers shall suffer the action or suit to fall asleep, or a decision shall be pronounced against the pursuer or pursuers upon the relevancy, the defender or defenders shall have treble costs or expenses; which he or they shall and may recover in such and the same manner as any defender can by law recover costs or expenses in other cases."

Limitation of actions, &c., in Scotland.

Plea.

Treble costs.

Sect. 34. "Convictions by any justice or justices of the peace for offences against this act, and adjudications of forfeitures of licences to be made in pursuance of this act, shall or may be in the several forms set forth for such purposes respectively in the schedule to this act annexed, or in words to that effect." [See Form No. 18, *post*.]

Form of conviction.

Sect. 35. "Nothing in this act contained shall be deemed to take away or abridge any provision already made by the law of this realm, or of any part thereof, for the suppression or punishment of any offence whatsoever described in this act."

Act not to affect other provisions made by law.

Sect. 36. "No person shall be prosecuted under this act, for having been, before the passing of this act, a member of any society or club declared hereby to be an unlawful combination and confederacy, if such person shall not in any manner have acted as a member of such society or club after the passing of this act; but that nothing in this act contained shall extend to prevent any prosecution, by indictment or otherwise, for any thing which shall be an offence within the intent and meaning of this act, and which might have been so prosecuted if this act had not been made: provided always, that no person who shall be prosecuted and convicted or acquitted of any offence against this act shall be subject or liable to be again prosecuted for the same offence: provided always, that nothing herein contained shall extend to discharge any person in custody at the time of passing this act, or who having been in custody shall have been discharged on bail or recognizance, from any prosecution which might have been had against such person if this act had not been made."

Proviso for persons having been members of any club previous to the passing of this act, &c.

No double prosecution.

Persons already in custody, &c. not discharged.

Sect. 37. "In case any proceeding or prosecution shall be instituted, commenced, or prosecuted for any offence committed against the said act of the thirty-ninth year of his present majesty, or against this act, either by

Power of the attorney-general and lord advo-

10. *Training to Arms.*

57 Geo. 3, c. 19.

cate and secretary of state to stay proceedings.

Act not to extend to Ireland.

60 Geo. 3, c. 6.

action, or by information before any justice or justices, or otherwise, it shall and may be lawful for his majesty's attorney-general for the time being, as to any such action, information, or other proceeding in England, or for the Lord Advocate of Scotland as to any such action, information, or other proceeding in Scotland, to order any such action, information, or other proceeding to be stayed; and in case of any judgment or conviction upon any such action, information, or proceeding, it shall and may be lawful for any one of his majesty's principal secretaries of state, by any order made for that purpose under his hand, to stay the execution of such judgment or conviction, or to mitigate or remit any fine or forfeiture, or any part thereof."

Sect. 39. This act is not to extend to Ireland.

The 60 Geo. III. c. 6, relative to seditious meetings, having been in force five years, is now expired.

X. *Training to Arms.*

60 Geo. 3, c. 1.

Meetings and assemblies of persons for the purpose of being trained, or of practising military exercises, or aiding therein, prohibited.

Punishment.

Persons so assembled may be dispersed, or detained and required to give bail, and prosecuted.

Scotland.

Sheriffs depute, &c., in Scotland,

By the 60 Geo. III. c. 1, intituled, "An Act to prevent the Training of Persons to the Use of Arms, and to the Practice of Military Evolutions and Exercise," [11th December, 1819,] sect. 1, after reciting, that, "in some parts of the United Kingdom, men clandestinely and unlawfully assembled have practised military training and exercise, to the great terror and alarm of his majesty's peaceable and loyal subjects, and the imminent danger of the public peace;" it is enacted, "that all meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercise, movements, or evolutions, without any lawful authority from his majesty, or the lieutenant, or two justices of the peace for any county or riding, or of any stewardry, by commission or otherwise, for so doing, shall be, and the same are hereby prohibited, as dangerous to the peace and security of his majesty's liege subjects and of his government; and every person who shall be present at or attend any such meeting or assembly, for the purpose of training and drilling any other person or persons to the use of arms or the practice of military exercise, movements or evolutions, or who shall train or drill any other person or persons to the use of arms, or the practice of military exercise, movements, or evolutions, or who shall aid or assist therein, being legally convicted thereof, shall be liable to be transported for any term not exceeding seven years, or to be punished by imprisonment not exceeding two years, at the discretion of the court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly as aforesaid, for the purpose of being, or who shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercise, movements, or evolutions, being legally convicted thereof, shall be liable to be punished by fine and imprisonment not exceeding two years, at the discretion of the court in which such conviction shall be had."

Sect. 2. "It shall be lawful for any justice of the peace, or for any constable or peace-officer, or for any other person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at, or aiding, assisting, or abetting any such assembly or meeting as aforesaid; and it shall be lawful for the justice of the peace who shall arrest any such person, or before whom any person so arrested shall be brought, to commit such person for trial for such offence, under the provisions of this act, unless such person can and shall give sufficient bail for his appearance at the next assizes or general or quarter sessions of the peace, to answer to any indictment which may be preferred against him for any such offence against this act, in England and Ireland; and in Scotland every such person shall be arrested and dealt with according to the law and practice of that part of the United Kingdom in the case of a bailable offence."

Sect. 3. "The sheriffs-depute and their substitutes, stewards-depute and their substitutes, justices of the peace, magistrates of royal burghs, and all

other inferior judges and magistrates, and also all high and petty constables, or other peace officers of any county, stewardry, city, or town, within that part of the United Kingdom called Scotland, shall have such and the same powers and authorities for putting this present act in execution within Scotland, as the justices of the peace and other magistrates and peace officers and constables aforesaid respectively have, by virtue of this act, within and for other parts of the United Kingdom."

Sect. 4. "Nothing in this act contained shall extend to prevent any prosecution, by indictment or otherwise, for any thing which shall be an offence within the intent and meaning of this act, and which might have been so prosecuted if this act had not been made, unless the offender shall have been prosecuted for such offence under this act, and convicted or acquitted of such offence."

Sect. 5. "Any action or suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer, or other person or persons, in that part of Great Britain called England, or in Ireland, for any thing done or acted in pursuance of this act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their actions after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."

Sect. 6. "Every action or suit which shall be brought or commenced against any person or persons in Scotland, for any thing done or acted in pursuance of this act, shall in like manner be commenced within six calendar months after the fact committed, and not afterwards, and shall be brought in the court of session in Scotland; and the defender or defenders may plead that the matter complained of was done in pursuance of this act, and may give this act and the special matter in evidence; and if such action or suit shall be brought or commenced after the time limited for bringing the same, then the same shall be dismissed; and in such case, or if the defender or defenders shall be assoilzied, or the pursuer or pursuers shall suffer the action or suit to fall asleep, or a decision shall be pronounced against the pursuer or pursuers upon the relevancy, the defender or defenders shall have treble costs or expenses, which he or they shall and may receive† in such and the same manner as any defender can by law recover† costs or expenses in other cases."

Sect. 7. "That no person shall be prosecuted by virtue of this act for any thing done or committed contrary to the provisions hereinbefore contained, unless such prosecution shall be commenced within six calendar months after the offence committed."

As to what evidence is admissible to show the intent of persons meeting together in large assemblies, marching in military order, &c., see *R. v. Hunt and others*, 3 B. & Ald. 566; *Bedford v. Birley*, 3 Stark. Ev. 1510.

XI. Forms.

Commencement as usual, *ante*, p. 175, Form, No. 1.], on the _____ day of (1.) Commitment
 , A. D. _____, at the parish of _____, in the said county, with for a riot.
 force and arms, at, &c., together with divers other evil-disposed persons, unlaw-
 fully, riotously, and routously, did assemble and gather together, to disturb

11. Forms.

the peace, and did then and there unlawfully, riotously, and routously, make a great noise, riot, and disturbance; and assault and beat one A. B., [according to the fact,] to the great disturbance and terror of the king's subjects, and against the king's peace. And you, the said keeper, &c. [Conclude as usual, ante, p. 175, Form, No. 1, to the end.]

(2.) Indictment for a riot.

— (venue). The jurors for our lord the king upon their oath present, that A. O. late of [farmer], B. O. late of the same place [yeoman], C. O. late of the same place [labourer], and divers other persons to the number of [twelve] and more, to the jurors aforesaid as yet unknown, on the day of , in the year of the reign of our lord the now king William the Fourth, at the parish aforesaid, in the county aforesaid, with force and arms, unlawfully, riotously, routously, and tumultuously did assemble and gather together, to disturb the peace of our said lord the king, and then and there being so assembled and gathered together, did then and there make a great noise, riot, tumult and disturbance, and then and there unlawfully, riotously, routously, and tumultuously remained and continued together, making such noise, riot, tumult, and disturbance, for a long space of time, to wit, for the space of hours and more then next following, to the great terror and disturbance not only of the liege subjects of our said lord the king there and thereabouts inhabiting, residing, and being, but of all the other liege subjects of our said lord the king there passing and re-passing, in and along the public streets, and king's common highways there*, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown, and dignity.

(3.) Indictment for a riot and assault.

[As in the preceding form to the*, and then allege,] in and upon one A. B., then and there being, unlawfully, riotously, and routously did make an assault, and him the said A. B. then and there unlawfully, riotously, and routously did beat, wound, and ill-treat, and other wrongs to the said A. B. then and there unlawfully, riotously, and routously did, to the great damage of the said A. B., and against the peace of our lord the king, his crown, and dignity.

(4.) Indictment upon the riot act for a misdemeanor.

— (venue). The jurors for our lord the king upon their oath present, that A. O., late of [yeoman], B. O., late of the same place [farmer], C. O., late of the same place [labourer], and divers other persons to the number of [twelve] and more, to the jurors aforesaid as yet unknown, on the day of , in the year of the reign of our lord the now king William the Fourth, at the parish aforesaid, in the county aforesaid, with force and arms, unlawfully, riotously, routously, and tumultuously did assemble and gather together to disturb the peace of our said lord the king, and that afterwards, to wit, on the day and year aforesaid, at the parish aforesaid, in the county aforesaid, J. P., Esq., then being one of the justices of our said lord the king, assigned to keep the peace of our said lord the king, in and for the county of Middlesex, aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors, committed in the same county, did then and there come as near as he safely could to the said A. O., B. O., C. O., and the said divers other persons to the number of [twelve] or more, to the jurors aforesaid as yet unknown, being then and there so assembled to the disturbance of the public peace as aforesaid, and with a loud voice he the said J. P. did then and there command and cause to be commanded silence to be while proclamation was making, and the said J. P., after that, did then and there openly, and with a loud voice, make proclamation according to the form of the statute in such case made and provided, in these words following, that is to say, "Our sovereign lord the king chargeth and commandeth all persons being assembled, immediately to disperse themselves and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the act made in the first year of King George, for preventing tumults and riotous assemblies.—God save the King." And the jurors aforesaid, upon their oath aforesaid, do further present, that the said A. O., B. O., C. O., and the said divers other persons to the number of [twelve] and more, to the jurors aforesaid as yet unknown, afterwards, to wit, on the said day of in the said year of the reign of our said lord the now

king, with force and arms, at the parish aforesaid, in the county aforesaid (notwithstanding the said proclamation was so openly made as aforesaid), did then and there unlawfully, feloniously, riotously, and tumultuously, to the disturbance of the public peace, remain and continue together by the space of one hour, after such command made by the proclamation so as aforesaid, in contempt of our said lord the now king and his laws, to the great disturbance and terror of the quiet and peaceable subjects of our said lord the king, to the evil example of all others in the like case offending, against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown and dignity.

(venue). The jurors for our lord the king upon their oath present, that J. A., late of the parish of _____, in the county of _____, labourer, H. A., late of the same place, labourer, H. B., late of the same place, labourer, and D. P., late of the same place, labourer, together with divers other evil-disposed persons, to the number of [forty] and more, to the jurors aforesaid as yet unknown, on the _____ day of _____, in the _____ year of the reign of our lord the now king William the Fourth, with force and arms, &c., at the parish of [St. M. L.], in the said county of S., did unlawfully, riotously, routously, and tumultuously assemble and gather together, to disturb the peace of our said lord the king, and, being so assembled and gathered together, did then and there unlawfully, riotously, routously, tumultuously, violently, and outrageously make great noises, riot, tumult, and disturbance, near to and about the dwelling-house of one G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, there situate, and in and near to a certain public highway there, and did then and there unlawfully, riotously, routously, and tumultuously stay and continue near to and about the said dwelling-house of the said G. F., and the said other persons, in the said highway, making such noises, riot, tumult, and disturbance, for a long space of time, to wit, for the space of [six] hours, then next following, to the great terror and disturbance, not only of the said G. F. and his family, and other the liege subjects of our said lord the king, there and thereabouts inhabiting, residing, and being, but of all the liege subjects of our said lord the king, passing and repassing in and along the said public highway there, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, on their oath aforesaid, further present, that the said J. A., &c., being persons of evil and turbulent dispositions, and maliciously intending and endeavouring to disturb and break the peace of our lord the now king, and to annoy and injure the said G. F., and a great number of his majesty's other quiet and peaceable subjects, and unlawfully, wickedly, and maliciously intending, devising, and endeavouring, as much as in them lay, to raise, create, and cause riots and breaches of the peace, near to the said dwelling-house of the said G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, situate in the said county of S., and in and near to a certain public highway there, theretofore, to wit, on the day and year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully, wickedly, and maliciously incited, stirred up, and, as much as in them lay, endeavoured and laboured to persuade and induce a great number of other liege subjects of our said lord the king, whose names to the jurors aforesaid are as yet unknown, with force and arms, unlawfully, riotously, routously, and tumultuously to assemble and gather together, in order to make and commit great noises, riot, tumult, and disturbances, near to and about the said dwelling-houses of the said G. F., and the said other persons, in the said highway, and to terrify, disturb, and injure the said G. F. and his family, and many other of his majesty's liege, peaceable, and quiet subjects, in contempt of our said lord the king, in open violation of the laws, good order, and government of this realm, to the evil and pernicious example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. A., &c., being persons of evil name and fame, and of wicked and malicious minds and dispositions, and intending to annoy and injure the said G. F., on the day and year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully and wickedly did conspire, combine, confederate, and agree together, and with divers other evil-disposed persons to the number of [forty] and more, (whose names are as yet unknown to the jurors aforesaid,) to attempt and endeavour, as much as in

(5.) Indictment for a riot and conspiracy to annoy prosecutor in his dwelling-house, &c.

Second count. For inciting to riot.

Third count. For conspiring to annoy prosecutor in his dwelling-house, and inciting others so to do.

11. *Forms.*

Fourth count.

Fifth count.

Sixth count.

them lay, to annoy, harass, and disturb and injure the said G. F. and his family, in the quiet and peaceable occupation, use, possession, and enjoyment of his said dwelling-house there situate; and that the said J. A., &c., in pursuance of, and according to the conspiracy, combination, confederacy, and agreement, so as aforesaid before had, on the same day and in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, did, in the quiet and peaceable occupation, use, possession, and enjoyment of the said dwelling-house of the said G. F., there situate, annoy, harass, disturb, and injure him the said G. F. and his family, by making, creating, and raising great noises, riot, tumult, and disturbance, near to and about the said dwelling-house, and by throwing and inciting divers others of his majesty's liege subjects to throw stones and other missiles against the said dwelling-house, and through certain windows, parcel thereof, to the great damage of the said G. F., to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. A., &c., together with divers other evil-disposed persons, to the number of [forty] and more, to the jurors aforesaid as yet unknown, on the day of _____, in the _____ year of the reign aforesaid, with force and arms, in the parish aforesaid, in the county aforesaid, unlawfully, riotously, routously, and tumultuously did assemble and gather together, to disturb the peace of our said lord the king, and being so assembled and gathered together, did then and there unlawfully, riotously, routously, tumultuously, violently, and outrageously make great noises, riot, tumult, and disturbance, near to and about the dwelling-house of one G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, there situate, and near to a certain public highway there, and did then and there unlawfully, riotously, routously, and tumultuously stay and continue near to and about the said dwelling-house of the said G. F. and the said other persons in the said highway, making such their noises, riot, tumult, and disturbance, for a long space of time, to wit, for the space of [six] hours then next following, to the great terror and disturbance, not only of the said G. F. and his family, and the other liege subjects of our said lord the king there and thereabouts inhabiting, residing, and being, but of all the other subjects of our said lord the king, passing and repassing in and along the said public highway there, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. A., &c., being persons of evil and turbulent dispositions, and maliciously intending and endeavouring to break the peace of our lord the now king, and to annoy and injure the said G. F., and a great number of his majesty's other quiet and peaceable subjects, and unlawfully, wickedly, and maliciously intending, devising, and endeavouring, as much as in them lay, to raise, create, and cause riots and breaches of the peace, near to the said dwelling-house of the said G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, situate in the said county of S., and in and near to a certain public highway there, heretofore, to wit, on the day and year last aforesaid, at the parish aforesaid, in the county aforesaid, unlawfully, wickedly, and maliciously, as much as in them lay, incited, stirred up, and as much as in them lay, endeavoured and laboured to persuade and induce a great number of other liege subjects of our said lord the king, whose names to the jurors aforesaid are as yet unknown, with force and arms, unlawfully, riotously, routously, and tumultuously to assemble and gather together, in order to make and commit great noises, riot, tumult, and disturbance near to and about the said dwelling-house of the said G. F., and the said other persons in the said highway, and to terrify, annoy, disturb, and injure the said G. F. and his family, and many other of his majesty's liege, peaceable, and quiet subjects, in contempt of our said lord the king, in open violation of the laws, good order, and government of this realm, to the evil and pernicious example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. A., &c., being persons of wicked and malicious minds and dispositions, and contriving and intending to annoy and injure the said G. F., on the day and year last aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully and wickedly did conspire, combine, confederate, and agree together, with divers other evil-disposed persons, whose names are as yet unknown to the jurors aforesaid, to attempt and endeavour as much as in them lay, to annoy, harass, disturb, and injure the said G. F. and his family, in the quiet and peaceable occupation,

use, possession, and enjoyment of his said dwelling-house, and that the said J. A., &c., in pursuance of and according to the conspiracy, combination, confederacy, and agreement as aforesaid, before had, on the same day and year last aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in the quiet and peaceable occupation, use, possession, and enjoyment of the said dwelling-house of the said G. F., there situate, did annoy, harass, disturb, and greatly injure him the said G. F. and his family, by making, creating, and raising great noises and disturbance, near to and about the said dwelling-house, and by throwing and inciting divers other of his majesty's liege subjects to throw stones and other missiles against the said dwelling-house and through certain windows, parcel thereof, to the great damage of the said G. F., to the evil example of all others, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, on their oath aforesaid, further present, that the said J. A., &c., on the day and year last aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said G. F., in the peace of God and our said lord the king then and there being, did make an assault, and him the said G. F. then and there did beat and ill-treat, and other wrongs to the said G. F. then and there did, to the great damage of the said G. F., and against the peace of our said lord the king, his crown, and dignity.

Seventh count
for an assault.

Commencement as usual, ante, p. 175, Form, No. 1.] , on the day of , A.D. , at the parish of , in the said county, with divers other persons, unlawfully, riotously, and tumultuously did assemble together, to the disturbance of the public peace; and, being so unlawfully, riotously, and tumultuously assembled together, as aforesaid, did unlawfully, feloniously, and with force demolish, pull down, and destroy [or, "begin to demolish, &c."], the dwelling-house of A. B., there situate, [as to what property is within the act, see ante, p. 335, and describe it accordingly,] against the form of the statute in that case made and provided. And you, the said keeper, &c. [As usual, as ante, p. 175, (No. 1), to the end.]

(6.) Commitment
for riotously de-
molishing a house,
or machinery, &c.
on 7 & 8 Geo. 4,
c. 30, s. 8.

(venue). The jurors for our lord the king upon their oath present, that A. B., late of the parish of , in the county of , labourer, C. D., late of the same place, labourer, E. F., late of the same place, labourer, together with divers other evil-disposed persons, to the number of [twelve] and more, to the jurors aforesaid unknown, on the day of , in the year of the reign of our lord the now king William the Fourth, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully, riotously, and tumultuously did assemble together, to the disturbance of the public peace; and, being so unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, as aforesaid, did then and there feloniously, unlawfully, and with force, demolish, pull down, and destroy the [dwelling-house] of one A. B., there situate, in contempt of our lord the king and his laws, to the great disturbance and terror of the quiet and peaceable subjects of this realm, to the evil example of all others, against the peace of our said lord the king, his crown, and dignity, and against the form of the statute in such case made and provided. [Add other counts as the case may suggest, and one count or more, stating the offence to have been the "beginning to demolish," &c.]

(7.) Indictment
for a like offence.

County of } Be it remembered, that on the day of , in the year of the reign of , we, J. P. and K. P., Esqs., two of the justices of our said lord the king assigned to keep the peace in the said county, and A. S., knight, sheriff of the said county, at the complaint and request of A. I., of , in the county aforesaid, [yeoman,] in our proper persons, have come to [the mansion-house] of him, the said A. I., in aforesaid, and then and there do find A. O., of , [yeoman,] B. O., of , [yeoman,] C. O., of , [yeoman,] and other malefactors and disturbers of the peace of our said lord the king, to us unknown, in a warlike manner arrayed, to wit, with clubs, swords, and guns, unlawfully, riotously, and routously assembled, and the same house besetting, many evils against him, the said A. I., threatening, to the great disturbance of the peace of our said lord

(8.) Record of a
riot on view.

11. Forms.

the king, and terror of his people, and against the form of the statute in that case made and provided. And therefore we, the aforesaid J. P., K. P., and A. S., the aforesaid A. O., B. O., and C. O., do then and there cause to be arrested, and to the next gaol of our said lord the king, in the county aforesaid, to be conveyed, by our view and record of the unlawful assembly, riot, and rout aforesaid convicted, there to remain, every and each of them respecticely, until they shall severally and respectively have paid to our said lord the king the several sums of 10l. each, which we do impose upon them and every of them separately for their said offence. In testimony whereof, to this our present record we do put our seals. Dated at _____ aforesaid, the day and year aforesaid.

(9.) Commitment of the rioters upon view.

County of } J. P. and K. P., Esqs., two of the justices of our said lord the king, assigned to keep the peace within the said county, and A. S., knight, sheriff of the said county, to the keeper of the gaol of our said lord the king at _____, in the said county, and to his deputy and deputies there, and to every of them, greeting. Whereas, upon complaint made unto us by A. I., of _____, [yeoman,] we did, this present _____ day of _____, go to the house of the said A. I., at _____ aforesaid, and there did see A. O., of _____, yeoman, B. O., of _____, yeoman, C. O., of _____, yeoman, and other malefactors to us unknown, assembled together in an unlawful, riotous, and riotous manner, to the terror of the people, and against the peace of our said lord the king, and against the form of the statute in that case made and provided. We do therefore send you by the bringers hereof the bodies of the said A. O., B. O., and C. O., convicted of the said riot, rout, and unlawful assembly, by our own view, testimony, and record; commanding you, in the name of our said lord the king, to receive them into the said gaol, and them and every of them respectively there safely to keep, until they and every of them shall respectively pay to our said lord the king the several and respective sums of 10l. each, which we have set and imposed upon them, and each and every of them separately, for the said offence. Given under our hands and seals, at _____ aforesaid, in the county aforesaid, the day and year aforesaid.

(10.) Precept to summon a jury.

County of } J. P. and K. P., Esqs., two of the justices of our lord the king, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, to the sheriff of the said county, greeting. On the behalf of our said lord the king, we command you that you cause to come before us, at _____, in the county aforesaid, on the _____ day of _____ next ensuing, twenty-four honest and lawful men of the county aforesaid, every one of which to have lands and tenements within the said county to the yearly value of 20s. of charter-land or of freehold, or 26s. 3d. of copyhold, or both, over and above all charges, to inquire for our said lord the king and for our indemnity in this behalf, upon their oath, of certain riots, routs, and unlawful assemblies, at _____, in the county aforesaid, lately committed, as it is said; and that you return upon every person so by you to be impanelled 20s. of issues at the aforesaid day, to be by them respectively forfeited if they shall not appear and be sworn to inquire of the premises at the same time and place. And this you shall in nowise omit, on pain of 20l. Given under our hands and seals, at _____ aforesaid, in the county aforesaid, the _____ day of _____, in the year of the reign of _____.

(11.) Juror's oath.

You shall true inquiry and presentment make of all such things as shall come before you concerning a riot, rout, and unlawful assembly, said to have been lately committed at _____, in this county: you shall spare no one for favour or affection, nor grieve any one for hatred or ill will; but proceed herein according to the best of your knowledge, and according to the evidence that shall be given to you. So help you God.

The oath which your foreman hath taken on his part, you and every of you shall well and truly observe and keep on your parts. So help you God.

County of } An inquisition for our lord the king, indented and taken at
 } in the county aforesaid, the day of , in the
 year of the reign of , by the oath of honest and
 lawful men of the county aforesaid, before J. P. and K. P., Esqs., justices of
 our said lord the king, assigned to keep the peace in the said county, and also to
 hear and determine divers felonies, trespasses, and other misdemeanors in the
 said county committed, who say upon their oath aforesaid, that A. O., of
 [yeoman,] B. O., of , [yeoman,] C. O., of , [yeoman,] toge-
 ther with other malefactors and disturbers of the peace of our said lord the king,
 to the jurors aforesaid as yet unknown, on the day of now
 last past, at aforesaid, in the county aforesaid, with force and arms, to
 wit, with clubs, swords, and guns, unlawfully, routously, and riotously did as-
 semble, to disturb the peace of our said lord the king; and so, being then and
 there assembled and gathered together, the [mansion house] of A. I. [yeoman],
 at aforesaid, unlawfully, routously, and riotously did enter, and in and
 upon him, the said A. I., then and there unlawfully, routously, and riotously
 did make an assault, and him, the said A. I., then and there unlawfully, rout-
 ously, and riotously did beat, wound, and ill treat, in disturbance of the peace of
 our said lord the king, and to the terror of his people, and against the form of
 the statute in such case made and provided.

We, whose names are hereunto set, the above-
 said jurors, do find this inquisition true.

We, the justices abovesaid, do hereby
 impose the fines here underwritten
 on the aforesaid offenders.

A. B.

C. D.

&c.

A. O. 20l.

B. O. 20l.

C. O. 20l.

_____ } Be it remembered, that on this day of , in the (13.) Adjudica-
 to wit. } year of the reign of his present majesty, A. O., of , tion of forfeiture
 being a person licensed to sell [as the case may be], is duly convicted before us, of licence to sell
 two of his majesty's justices of the peace for the county of , in pursuance ale, &c., by the
 of an act of the thirty-ninth year of the reign of King George the Third, inti- 39 Geo. 3, c. 79(b).
 tuled, [set forth the title of the act] (a), for that he, the said A. O., of ,
 at , did permit a meeting of a society [describing the society], which is
 an unlawful combination and confederacy within the intent and meaning of the
 said act, to be held at , being the house [as the case may be] of the
 said A. O., wherein he, the said A. O., is licensed to sell [as the case may be].
 Wherefore we, the said , do adjudge and declare that the licence [or,
 licences, as the case may be] is [or, are] for such offence forfeited. Given under
 our hands and seals, this day of , in the year of our Lord
 , and in the year of the reign of his majesty king .

_____ } Be it remembered, that on this day of , in the (14.) Conviction
 to wit. } year of the reign of , A. O., of , of an unlawful
 duly convicted before me, [or, us], of his majesty's justices combination and
 of the peace for , in pursuance of an act of the thirty-ninth year of confederacy, by
 the reign of King George the Third [set forth the title of the act], for that the the 39 Geo. 3,
 said A. O., after the passing of the said act, to wit, on the day of c. 79 (b).
 , did, contrary to the said act, become a member of [or, as the case
 may be, "act as a member of, or maintain correspondence or intercourse with, or,
 by contribution of money or otherwise, abet or support"] a society [describing the
 society], which society is an unlawful combination and confederacy within the
 intent and meaning of the said act. Wherefore I [or, we], the said , do
 adjudge that he, the said A. O., do pay [or, be imprisoned] as a penalty
 for his offence, in pursuance of the said act. Given under my hand and seal
 [or, our hands and seals], this day of , in the year of our
 Lord , and in the year of the reign of his majesty king .

(a) "An Act for the more effectual for better preventing Treasonable and
 Suppression of Societies established for Seditious Practices."
 Seditious and Treasonable Purposes; and (b) The act gives this form.

11. Forms.

(15.) General form of a conviction, by the 39 Geo. 3, c. 79.

_____ } Be it remembered, that on this _____ day of _____, in the
to wit. } _____ year of the reign of _____, A. O., of _____, is duly
convicted before me _____ [or, us], _____ of his majesty's justices of the peace
for _____, in pursuance of an act of the thirty-ninth year of the reign of
King George the Third [set forth the title of the act] (b), for that the said A. O.,
on the _____ day of _____, at _____, did, contrary to the said act [as the
case may be, specifying any offence against the act, and the time and place when and
where the same was committed]. Wherefore I [or, we], the said _____, do
adjudge that he, the said A. O., do pay the sum of _____, as a penalty for
his offence, in pursuance of the said act. Given under our hands and seals,
this _____ day of _____, in the year of our Lord _____, and in
the _____ year of the reign of his majesty king _____.

(16.) Conviction of an unlawful combination and confederacy, by the 57 Geo. 3, c. 19 (a).

_____ } Be it remembered, that on this _____ day of _____, in the
to wit. } _____ year of the reign of _____, A. B., of _____, is
duly convicted before me _____ [or, us], _____ of his majesty's justices
of the peace for _____, in pursuance of an act of the fifty-seventh year of the
reign of King George the Third [set forth the title of the act], for that the said
A. B., after the passing of the said act, to wit, on the _____ day of _____,
at _____, did, contrary to the said act, become a member of [or, as the case may
be, act as a member of, or maintain a correspondence or intercourse with, or, by
contribution of money or otherwise, abet or support] a society [describing the
society], which society is an unlawful combination and confederacy within the
intent and meaning of the said act. Wherefore I [or, we], the said _____,
do adjudge, that he, the said A. B., do pay _____ [or, be imprisoned], as a
penalty for his offence in pursuance of the said act. Given under my hand and
seal [or, our hands and seals], this _____ day of _____, in the year of our
Lord _____, and in the _____ year of the reign of his majesty king _____.

(17.) Forfeiture of licence to sell ale, &c., by the 57 Geo. 3, c. 19 (a).

_____ } Be it remembered, that on this _____ day of _____, in the
to wit. } _____ year of the reign of his present majesty, A. B. of _____,
being a person licensed to sell [as the case may be], is duly convicted before us,
two of his majesty's justices of the peace for the county of _____, in pursu-
ance of an act of the fifty-seventh year of the reign of King George the Third
[set forth the title of the act], for that he, the said A. B., on _____, at _____,
did permit a meeting of a society [describe the society], which is an unlawful
combination and confederacy within the intent and meaning of the said act, to be
held at _____, being the house [as the case may be] of the said A. B., wherein
he, the said A. B., is licensed to sell [as the case may be]. Wherefore we, the
said _____, do adjudge and declare, that the licence [or, licences, as the case
may be], is [or, are] for such offence forfeited. Given under our hands and seals,
this _____ day of _____, in the year of our Lord _____, and in the
_____ year of the reign of his majesty king _____.

(18.) Conviction for offences subject to pecuniary penalties, by the 57 Geo. 3, c. 19 (a).

Be it remembered, that on this _____ day of _____, in the _____ year of
the reign of _____, A. B. of _____, is duly convicted before me _____ [or us],
_____ of his majesty's justices of the peace for _____, in pursuance of an act
of the fifty-seventh year of the reign of King George the Third [set forth the title
of the act], for that the said A. B., after the passing of the said act, on _____,
at _____, did, contrary to the said act [here specify any offence against the act,
as the case may be]. Wherefore I [or we], the said _____, do adjudge that
the said A. B. do pay the sum of _____, as a penalty for this offence, in
pursuance of the said act.

(a) The act gives this form.

(b) See note in preceding page.

Rivers and Navigation.

See "Seamen;" "Ships;" "Thames," *post*.

A RIVER which is common to all the king's subjects is a highway. How far a river (Roll. Ab. 390; *Young v. —*, 1 *Ld. Raym.* 725; "Highways," a highway. Vol. III. p. 72.) So is a navigable river. (See *Miles v. Rose*, 5 *Taunt.* 705; 1 *Marsh.* 513, S. C.; *R. v. Montague*, 4 B. & C. 598; 6 D. & R. 616, S. C.; and see *Wellbeloved*, 19, 444.)

The right to a passage therein cannot be extinguished, except by writ How extin- of *ad quod damnum*, by act of parliament, or by natural causes. (*R. v. Mon-* guished. *tague*, 4 B. & C. 603; 6 D. & R. 616, S. C.; *Vooght v. Winch*, 2 B. & Ald. 662.) In *Com. Dig. Chemin*, (A. I.) it is said a navigable river is in the nature of a highway; and, if the water alters its course, the way alters.

A charge for the amendment of a river may sometimes be incurred. Amending. (*Mayor of Lynn v. Turner*, *Cowp.* 86.)

The soil of all fresh rivers that are *publici juris*, *primâ facie* belongs, Soil of. *usque filum aquæ*, to the adjoining proprietors. (*De Juris Maris*, p. 9.) And the soil of arms of the sea, *primâ facie*, belongs to the king. (*Id.* p. 1.)

Where an act of parliament, passed for the purpose of making navigable a natural river, does not vest in the undertakers of the navigation the bed of the river, but gives them, for that purpose, a mere privilege of scouring and cleansing it, they are not occupiers of the land used for the purpose of navigation, but have a mere easement in it. (*R. v. Irwell and Mersey Navigation*, 9 B. & C. 95; 4 *Man. & R.* 84, S. C.; *R. v. Thomas*, 9 B. & C. 114; S. C. *nom. Rex v. Avon Company*, 4 *Man. & R.* 23; and see *R. v. Aire and Calder Navigation*, *Id.* 827.)

The public are not entitled at common law to tow on the banks of ancient Towing paths. navigable rivers. (*Ball v. Herbert*, 3 *T. R.* 253.) But a right to a track path on each side of the river Tees (alternately) for towing without paying any acknowledgment, was found upon a trial at bar. (*Pierce v. Fauconberge*, *Lord*, 1 *Burr.* 292.) If an act of parliament for inclosing and allotting the common and waste lands of a parish through which a navigable river flows, empower commissioners to set out such public and private roads and ways as they shall think necessary, and direct that all roads and ways not so set out shall be deemed part of the lands to be allotted; an ancient towing path upon the banks of the river, though not set out by the commissioners, still subsists, for it is not within their jurisdiction. (*Simpson v. Scales*, 2 B. & P. 496.) A statute authorizing the making of a new course for a navigable river and turning the old part into a floating harbour, will not, without words for the purpose, put an end to a public towing path upon that part, but such towing path will be liable to be used as such for the purposes of the harbour, and it will make no difference though the river was a tide river, and not navigable at low water. (*R. v. Tippet*, 1 *Russ. C. & M.* 317.)

A proprietor of land adjoining a river has a right to raise the banks, from Right to raise time to time as occasion may require, upon his own land, so as to confine banks of, &c. the flood water within the banks, and to prevent it from overflowing his land, with this single restriction, that he does not thereby occasion an injury to the lands and property of other persons; and if, being in the actual exercise of this right, an aqueduct and embankment be built lower down the river, it will be subject to the enjoyment of such rights as the landholder possessed at the time when it was constructed. (*R. v. Trafford*, 2 C. & J. 265; 8 *Bingh.* 204, S. C.; and see 1 B. & Adol. 874.)

If an aqueduct be built, so as in times of flood to pen back the water of a river, and cause it to overflow the lands of the adjoining proprietors, they may raise fenders to protect their lands, even though the water of the river be thereby forced against and endanger the aqueduct, unless, by the con-

Right to raise
banks, &c. of.

struction or raising of the fenders, the proprietors impede what was, before the erection of the aqueduct, the ancient and accustomed course for the escape of the water in times of flood.

Where, therefore, upon an indictment against the proprietors of land adjoining a public navigation, for a nuisance in erecting and continuing fenders on the banks of a river, whereby the water of the river was forced against the sides and aqueduct of the canal, it appeared that the canal was carried across the river and adjoining valley, by means of an aqueduct and embankment, in which were several arches and culverts; that a brook fell into the river above its point of intersection with the canal, and that, in times of flood, the water, which was penned back into the brook, overflowed its banks, and was carried, by the natural level of the country through the arches in the embankment to the river, doing much damage to the lands over which it passed; that the aqueduct was sufficient for the passage of water at all times, except in times of high flood; and that, on either side of the river and brook, there were fenders to prevent the waters from overflowing the lands adjoining which fenders had been raised from time to time as occasion required; but it did not appear whether the raising of the fenders was or was not an accustomed usage before the construction of the canal; nor what was the ancient course of the water in times of flood; nor whether the raising of the fenders was or was not necessary, in consequence of the construction of the canal:—Held, that no judgment could be given. (*Id.*)

The ordinary course of water cannot be lawfully changed or obstructed for the benefit of one class of persons to the injury of another, and it seems no sound distinction can be made between the ordinary course of water flowing in a bounded channel at all usual seasons, and the extraordinary course which its superabundant quantity has been accustomed to take up at particular seasons, and if a party obstructs such course, he may be indicted if he thereby create a public nuisance, or sued if he thereby create a private nuisance. (*R. v. Trafford*, 1 B. & Adol. 874.) But every person may defend himself, if he can, against the sea, which has been compared on such occasions to a common enemy on all parts of the coast where it encroaches. (*R. v. Commissioners of Sewers for Pagham*, 8 B. & Cres. 355; 2 Man. & R. 468, S. C.)

Nuisances to, in
general.

We have already noticed as to what are nuisances at common law to highways in general, and the manner of redressing them, "*Highways*," Vol. III. p. 132; and the observations there made will, for the most part, be here applicable.

Although a subject may by prescription have a wear in the sea, yet if it be a nuisance to the passage of ships, the same may be abated. (*De Jure Maris*, 21; *Wellbeloved*, 446, 447: but see, as to the erection of staiths, *R. v. Russell*, 6 B. & C. 566; 9 D. & R. 566, S. C.; "*Highways*," Vol. III. p. 134.)

It is a nuisance to lay timber in a public river, although the soil on which it is laid belongs to the party, provided it obstructs the necessary intercourse. (3 Bac. Ab. 686; *R. v. Smith*, 3 Keb. 759; and see *R. v. Ld. Grosvenor*, 2 Stark. C. N. P. 511.)

So, it is a common nuisance to divert part of a public navigable river, whereby the current of it is weakened, and made unable to carry vessels of the same burthen as it would before. (1 Haw. c. 75, s. 11, 5.)

If a vessel be sunk in a navigable river by accident or misfortune, an indictment cannot it seems be maintained against the owner for not removing it. (*R. v. Watts*, 2 Esp. 675.) But he is at all events bound to place some buoy or signal over the wreck; and it seems that it is not enough to station a watchman near the spot to point out the danger. (*Harmond v. Pearson*, 1 Camp. 515.)

Filling up havens,
&c. with ballast,
&c.

By the 19 Geo. II. c. 22, s. 1, if any master or owner, or any person acting as master of any ship, pink, crayer, lighter, keil-boat, or other vessel whatsoever, shall cast, throw out, or unlade; or if at any time, from and after the day aforesaid, there shall be cast, thrown out, or unladen from and out of any ship, pink, crayer, lighter, keil-boat, or other vessel whatsoever, being

or riding within any haven, port, road, channel, or navigable river, within that part of Great Britain, called England, any ballast, rubbish, gravel, earth, stone, wreck, or filth, but only upon the land where the tide or water never flows or runs; it shall and may be lawful for any one or more justice or justices of the peace for the county, city, town corporate, liberty, or place, where or near which such offence shall be committed, upon information thereof, and he and they are hereby authorized and required to summon, or issue out his or their warrant or warrants to apprehend and bring before him or them, the master or masters, owner or owners, of any such ship, pink, crayer, lighter, keil-boat, or other vessel, or other person or persons acting as such, against whom such complaint or information shall be made or given; and upon his, her, or their appearance or default, to proceed to examine the matter of fact, and upon due proof made (either by the confession of the party offending, or on view of such justice or justices, or upon the oath or oaths of one or more credible witness or witnesses, which oaths the said justices are hereby empowered and required to administer), that any ballast, rubbish, earth, gravel, stone, wreck, or filth, had been cast, unladen, or thrown out of, or from any ship, pink, crayer, lighter, keil-boat, or other vessel, the master or masters, or person or persons acting as master or masters thereof, shall be adjudged, and he and they are hereby respectively declared to be the offenders against this act; and he and they being by such justice or justices (or any of the ways or means aforesaid) thereof convicted, shall forfeit and pay for every such offence any sum not exceeding the sum of 5*l.*, nor under 50*s.*, at the discretion of such justice or justices, the one moiety thereof to the informer, and the other moiety thereof to the overseers of the poor of the parish, town, or place wherein such conviction shall be pronounced, for the use of the poor there.

Justices may
issue warrant.

Penalty.

Sect. 2. "The penalties inflicted or incurred by this act shall be recovered and levied by distress and sale either of the goods or chattels of the persons so convicted respectively as aforesaid, or of the ship, pink, crayer, lighter, keil-boat, or other vessel, or of their tackle, apparel, or furniture (by warrant or warrants under the hand and seal, or hands and seals of such justice or justices, and which he and they are hereby empowered and required, on such conviction as aforesaid, to make, and to direct the same to the constables, or to the tithingman, or other proper officer of the parish, town, or place where such warrants are respectively to be executed; and which warrants the constables and tithingmen, and officers aforesaid, are hereby respectively required to execute) together with the charges of such distress and sale, rendering the overplus (if any be, after demand in writing) to the respective owners thereof; and for want of sufficient distress, the said justice or justices are hereby empowered and required to commit such master or masters, or person or persons acting as such, and so convicted as aforesaid, to the common gaol of the county, city, town corporate, or to the house of correction of the county where the offenders shall be respectively convicted as aforesaid, there to remain for the space of two months, or until payment shall be made of the penalties and forfeitures, or so much thereof, as for the non-payment of which such commitment shall be."

Distress.

Imprisonment.

Sect. 6. "None of the distresses to be at any time made by virtue of this act, or any part of such distresses, shall be sold till after the expiration of five days from the making such distresses respectively; but that it shall and may be lawful to and for the persons convicted in the meanwhile (to wit, at any time before the expiration of the said five days) to redeem such distress, by payment of the money for which the same shall have been made by virtue hereof, to and for the uses and purposes of this act, together with the costs and charges of and for making, seizing, and detaining such distress."

Distress sold.

Sect. 3. "As soon as any ship or vessel shall be sunk, stranded, or run on shore in any harbour, port, channel, or navigable river, or shall be brought or drove in, or be there in a ruinous or shattered condition as aforesaid, and permitted to remain there, and the owner, or some other person having, or pretending to have, any property therein, or the command or power thereof, or any other person or persons by their or any of their order, privity, or assent,

Ship sunk or
stranded, &c., in
an harbour, and
permitted to re-
main there.

19 Geo. 2, c. 22.	shall begin to take down or carry away any of the rigging or tackle, or if there shall not be any person to take care of the said ship or vessel, it shall be lawful for any one or more justice or justices of the peace for the county or place where or near† such fact, accident, or offence shall happen, upon information thereof, and he and they are hereby authorized and required, to summon, or issue out his or their warrant or warrants to apprehend and bring before him or them the owner, or other person having, or pretending to have, the command or power over such ship or vessel; and upon his or their appearance or default, to proceed to examine the matter of fact, in manner and form aforesaid; and in case, upon such examination, such justice or justices shall find any owner, or other person having, or pretending to have, the command or power over such ship or vessel, or any of the persons aforesaid, guilty of such offence as aforesaid, such justice or justices shall, and he and they is and are hereby required to issue his and their warrant or warrants for seizing and removing such ship or vessel, and also the rigging or tackle thereof, in such manner as such justice or justices shall order and direct; and if the owner or other such person aforesaid, shall not within five days give security, according to the approbation of such justice or justices, to clear the harbour, port, channel, or river, of such vessel, and of all wreck, and parts belonging to the same, and pay the charges and expenses of seizing, removing, and disposing of such ship or vessel, tackle, or furniture, then to cause the hulk, rigging, or tackle to be sold, and with or out of the money arising by such sale, to pay the charges and expenses of clearing the harbour or place where such ship or vessel shall lie; and also the charges and expenses of seizing, removing, and selling such ship, vessel, furniture, and tackle, rendering the overplus, if any be, to the owner or owners of such manor where the same shall happen."
† Sic.	
Warrant.	
Conviction.	
Warrant.	
Sale of ship, &c.	
Justices to execute act indiscriminately.	Sect. 4. "All and every the justices aforesaid may, and they are hereby respectively authorized and required to put this act in execution against any person or persons within their several jurisdictions, although such justice or justices shall or may be rated or assessed, or do, or shall, or may actually pay for or towards the maintenance or relief of the poor of any parish, town, or place, in which any conviction in pursuance of this act shall be pronounced; any law or statute to the contrary thereof notwithstanding."
Conviction final.	Sect. 5. "All convictions, to be pronounced by the authority of this act, shall be final to all intents and purposes, not to be appealed from, or removed into any court of record at Westminster."
Limitation of powers of act.	Sect. 7. "Nothing in this act contained shall extend, or be construed to extend to take away, abridge, diminish, or alter any right, benefit, or lawful use, that the lord or lords, lady or ladies, of any manor or manors adjoining to, or bordering upon, any haven, port, road, channel, or river, or that any other person or persons whatsoever hath or have to such haven, port, channel, or river, or to the banks, shores, or sides thereof, or any fishery, manufactures, or royalties therein; nor extend to the casting out, unloading, or throwing out of any ship, pink, crayer, lighter, keil-boat, or other vessel, any stone, rocks, bricks, lime, or other materials, used or to be used, in or towards the building, amending, repairing, and keeping in repair, any quay, pier, wharf, wear, or bridge, or the banks or sides of any haven, port, road, channel, or navigable river within this realm; but, on the contrary, this act shall be construed and taken to prevent the mischiefs to be done in, or to, or upon the said havens, ports, roads, channels, or rivers, which may any ways tend to obstruct, prejudice, incommode, hinder, or do any annoyance in the said havens, ports, roads, channels, or rivers, or prejudice the navigation therein, and not otherwise."
Proviso.	Sect. 8. Saves the former jurisdictions, rights, or remedies to punish any nuisances to be done in any haven, port, road, channel, or navigable river.

Unloading ballast from a ship into a machine or vessel, called a hopper, in a navigable river, with intent to carry and cast it into the high and open sea, and carrying it accordingly and casting it out of the said hopper, when the water was more than fourteen fathom deep, at a distance from any port,

haven, channel, or navigable river, is an offence against the positive enactment of 19 Geo. II. c. 22, and subjects the offender to the penalty of s. 1. 54 Geo. 3, c. 159.
(*Brucklesbank v. Smith*, 2 Burr. 656.)

By the 54 Geo. III. c. 159, s. 1, the 9 Geo. III. c. 30, and 10 Anne, c. 7, 54 Geo. 3, c. 159. as far as they relate to the harbour moorings of the navy, and the 51 Geo. III. c. 73, are repealed.

Sect. 2. The Admiralty may establish regulations for the preservation of the king's moorings, and for mooring merchant-ships. Such regulations to be published in the Gazette, and to be hung up conspicuously in custom-houses, &c.

Sect. 3. No private ships to fasten to his majesty's moorings, under penalty of not exceeding 10*l.* for each tide.

Sect. 4. Power given to harbour-master and other officers to unmoor and remove private ships of war or merchant-ships, &c. Penalty of 10*l.* on owner, master, &c., of private ships, neglecting or refusing to remove after one hour's notice.

Sect. 5. Notice to be given when his majesty's moorings are hooked.

Sect. 6. Places to be appointed for breaming ships, and for leaving and receiving gunpowder.

Sect. 7, 8. Penalties on breaming ships, except at appointed places, and on keeping guns shotted.

Sect. 9. Power given to harbour-master and other officers, to enter private ships to search for gunpowder, &c., within limits prohibited. Penalty of 10*l.* for refusing admittance to proper officers.

Sect. 10. None to sweep for his majesty's stores within one hundred yards of his majesty's ships or moorings, but licensed persons, under penalty of 10*l.*

Sect. 11. "If the owner, master, or other person, having the charge or command of any private ship of war, transport, or other private or merchant-ship or vessel, lighter, barge, boat, or other craft whatsoever, or any person working any quarry, mine, or pit, near to the sea, or to any such harbour, haven or navigable river as aforesaid, or any other person or persons whatsoever, shall cast, throw, empty, or unlade, or cause or procure to be cast, thrown, emptied, or unladen, either from or out of any such ship or vessel, lighter, barge, boat, or other craft, or from the shore, any ballast, stone, slate, gravel, earth, rubbish, wreck, or filth, into any of such ports, roads, roadsteads, harbours, havens, or navigable rivers of this kingdom as aforesaid, so as to tend to the injury or obstruction of the navigation thereof, or in any place or situation on shore where the same shall be liable to be washed into the sea, or into any such ports, roads, roadsteads, harbours, havens, or navigable rivers, either by ordinary or high tides, or by storms or land-floods; all and every such person and persons so offending shall, for every such offence, forfeit and pay a sum not exceeding the sum of 10*l.* over and besides all expenses which may be incurred in removing to a proper place the said matters which may have been deposited contrary to the provisions of this act, such expenses to be recoverable in such manner and with such power of commitment, on non-payment thereof, as in cases of penalties or forfeitures under this act: provided that nothing herein contained shall extend or be construed to extend to the casting out, unlading, or throwing out of any ship or vessel, lighter, barge, boat, or other craft, any stones, rocks, bricks, lime, or other materials used or to be used in or towards the building, repairing, or keeping in repair, any quay, pier, wharf, wear, bridge or other building, or the banks or sides of any port, harbour, haven, channel or navigable river, or any materials for repairing any highway; any thing herein contained to the contrary thereof in anywise notwithstanding." [See Form, *post.*]

Casting ballast, &c., into harbours, &c.

Penalty.

Proviso.

† Sic.

Sect. 12, for the more effectually preventing such injuries, enacts, "that no ship or vessel, lighter, barge, boat, or craft whatsoever, shall unlade on any part of the shore (except on some wharf properly constructed for the purpose) any ballast, stone, slate, gravel, earth, rubbish, wreck, or filth, except at the time of high water, or within two hours before or two hours

In what manner ships, &c., may unlade ballast.

54 Geo. 3, c. 159.

after high water ; and that for every such purpose, every such ship or vessel, lighter, barge, boat, or craft, shall approach the shore, as far as the tide and the draught of water of such ship, vessel, lighter, barge, boat, or craft will admit, and shall, under no circumstances and in no situation, deposit any of the said matters below low-water mark at neap tides ; and that every vessel drawing above eleven feet of water at the stern shall unlade all such materials into some lighter, barge, or boat, as hereinbefore directed, in order that the same may be conveyed as near the shore as possible at the time of high water, as hereinbefore directed."

Ballast cast on shore from side of ship nearest to land.

Sect. 13. " All such ballast and other matters shall, in all the above-mentioned cases, be cast on shore from the side of the ship, lighter, barge, boat, or other craft, which shall be nearest to the land, and not otherwise ; and every person who shall offend in any of the above particulars, shall, for every such offence, forfeit and pay a sum not exceeding the sum of 10*l.*, over and above all expenses which may be incurred in removing to a proper place the said matters which may have been deposited contrary to the provisions of this act ; such expenses to be recoverable in such manner, and with such powers of commitment on non-payment thereof, as in cases of penalties or forfeitures under this act."

Penalty.

Taking ballast from shore in harbours.

Sect. 14. And, in order to prevent damage being done to the shores or banks of the ports, harbours, or havens, in this kingdom, it is enacted, " that no person or persons shall take any ballast or shingle from the shores or banks, or any portion of the shores or banks, of any port, harbour, or haven, of this kingdom, from which the commissioners for executing the office of Lord High Admiral of the United Kingdom for the time being shall find it necessary for the protection of such port, harbour, or haven, or the works thereof, by order under their hands, or the hands of any three of them, or the hands of his or their secretary, and published in the London Gazette, to prohibit the taking or removing of such shingle or ballast, upon pain of forfeiting for every such offence the sum of 10*l.*"

Penalty.

Tarpaulins to be used in taking and discharging ballast.

Sect. 15. " In the taking of ballast into any ship or vessel, lighter, barge, boat, or other craft, and also in the discharging of the same from any ship or vessel into any lighter, boat, barge, or other craft, every such ship or vessel, lighter, barge, boat, or other craft, shall be provided with, and shall make use of, one or more tarpaulin or tarpaulins, properly stretched and spread, in order to prevent such ballast or any part thereof from falling into the sea, or into any harbour, haven, or navigable river ; and, in case any person or persons shall either take any ballast into any ship or vessel, lighter, barge, boat, or other craft, or shall discharge the same from any ship or vessel into any lighter, barge, boat, or other craft, without using such sufficient tarpaulin or tarpaulins, properly stretched and spread, in order to prevent such ballast or any part thereof from falling into the sea, or into any such harbour, haven or navigable river ; all and every person or persons offending therein shall, for every such offence, forfeit and pay the sum of 5*l.*"

Penalty.

Sect. 16. Admiralty may dispense with the provisions relative to ballast.

Sect. 17. Vessels sunk or stranded, after twenty-eight days' refusal or neglect of owner to raise the same, may be weighed and raised under direction of harbour-master, or commissioner of the navy, and the charge of raising be paid from the sale of vessel or goods on board.

Sect. 18. Harbour-master, &c., indemnified for acts in pursuance of this act.

Sect. 19. On neglect of harbour-master, &c., for two months, the owner or master of the vessel may weigh and raise it.

Sect. 20. Commissioners of the navy, residing at any port, &c., near to the place where any offence is committed against this act, are empowered to act as justices of the peace for all the purposes of the act.

Penalties, &c., how recovered, &c.

Sect. 21. " All the penalties and forfeitures imposed by this act shall be sued for within twelve calendar months next after the offence or offences shall be committed, before any commissioner of the navy or justice of the peace residing at or near to the place where any such offence or offences shall be committed ; all which said penalties and forfeitures shall go and

be applied as follows; that is to say, one moiety thereof to the use of his majesty, his heirs, and successors, and the other moiety thereof, with full costs, to be adjudged by such commissioner of the navy or justice of the peace, to the informer; and every such commissioner of the navy, and justice of the peace, is hereby authorized and required, upon information exhibited, or complaint made, to grant and issue his warrant in writing under his hand, to bring before them respectively such offender or offenders at the time and place in such warrant specified; and if on the conviction of the offender or offenders respectively, on his, her, or their confession, or on oath (which oath every such commissioner of the navy or justice of the peace is hereby authorized and empowered to administer), such penalty or forfeiture, together with such costs as aforesaid, shall not be forthwith paid, it shall be lawful for such commissioner of the navy or justice of the peace to commit any such offender or offenders to the common gaol or house of correction for the county, city, or borough, at or near to the place where the offence or offences shall be committed, there to remain without bail or mainprize, for any time not exceeding three months, unless such penalty or forfeiture and costs shall be sooner paid."

54 Geo. 3, c. 159.

Imprisonment (a).

Sect. 22. "It shall be lawful for any commissioner of the navy, residing at or near to any port, harbour, or haven, or any part thereof, or for any justice of the peace for any county, city, or borough, acting in and for any district or place next adjoining to any such port, harbour, haven, road, roadstead, sound, channel, creek, bay, or navigable river, or any member of any of them, where any such offence or offences may be committed, to proceed in the execution of this act, and of all the powers and authorities thereof, herein and hereby given to commissioners of the navy and justices of the peace, in such and the same manner, and as fully and effectually, to all intents and purposes, as if such offence or offences had been committed locally within the limits of the jurisdiction of such commissioner of the navy or justice of the peace, although the same may have been committed out of the limits of the jurisdiction of such commissioner or justice, or out of the body of any county of this realm."

Extent of jurisdiction of commissioners of navy and justices of peace.

Sect. 23. "And for the more easy and speedy conviction of offenders against this act, and also for the prevention of frivolous and vexatious appeals, be it further enacted, that every commissioner of the navy and justice of the peace before whom any person or persons shall be convicted of any offence or offences against this act, shall and may cause the conviction to be drawn up according to the following form, or in any form of words to the like effect, *mutatis mutandis*; which conviction shall be good and effectual to all intents and purposes, without stating the case, or the facts, or evidence, in any more particular manner; that is to say,

Conviction, how drawn up.

'Be it remembered, that on the _____ day of _____, in the year _____ of our lord _____, A. B. is convicted before me _____, one of the commissioners of the navy, or one of his majesty's justices of the peace for the _____ of _____, [as the case may be,] for that the said A. B., on the _____ day of _____, at _____, did [here state the offence against this act], contrary to the statute in such case made and provided. Given under my hand and seal the day and year first above written.'

Form.

Which conviction the said commissioner or justice shall cause to be fairly written upon parchment or paper, and returned to the next general quarter sessions of the peace for the county, division, city, town corporate, liberty, or place where such conviction was made, to be filed by the clerk of the peace, and there to remain and be kept among the records of the same county, division, or place; and the same shall not be removed by *certiorari*, *certiorari*, &c. advocacy, or suspension, or any other process whatsoever, into any court whatsoever."

Written on parchment, &c.

Filed.

Certiorari, &c.

Sect. 24. "If any person or persons shall be summoned as a witness or

Witnesses not attending.

54 Geo. 3, c. 159.

Penalty.

Perjury, &c.

Appeal.

Notice.

Recognizance.

Costs.

Final.

Injuries to banks,
locks, &c., in
rivers.Stealing from
ships, &c., in
rivers, &c.Information on
54 Geo. 3, c. 159,
s. 11, for throwing
ballast, &c., into
rivers, &c. (a).

witnesses to give evidence before any such commissioner or justice or justices of the peace, touching any of the matters relative to this act, either on the part of the informer or prosecutor, or of the party or parties accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed by such commissioner or justice or justices of the peace before whom the complaint or prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of 10*l.*, to be recovered, levied, and paid, and applied in such manner, and by such means, as is above directed with respect to fines on summary convictions."

Sect. 25. Persons wilfully and corruptly giving false evidence, or wilfully and corruptly swearing or affirming any thing false before commissioner or justice, in any matter relating to the execution of this act, declared liable to the penalties of wilful and corrupt perjury.

Sect. 26. "It shall and may be lawful to and for any person or persons so convicted by any commissioner of the navy or justice of the peace before mentioned, of any offence or offences against this act, within three calendar months next after such conviction, to appeal to the justices of the peace assembled at the general quarter sessions holden for the county, city, or place, where the matter of appeal shall arise, first giving ten days' notice of such appeal to the person or persons appealed against, and of the matter thereof, and entering into a recognizance before some commissioner of the navy, or justice of the peace for such county, city, or place, with two sufficient sureties, conditioned to try such appeal, and for abiding the determination of the court therein; and such justices at the general quarter sessions shall, upon due proof of such notice having been given, and a recognizance having been entered into, hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction, and award such costs to the party as to them shall seem just and reasonable; and the decision of the said justices therein shall be final, binding, and conclusive."

Sect. 27. Action or suit to be commenced within six months after offence.

Sect. 28. Act not to affect rights of property, privileges, jurisdictions, and powers of conservancy.

As to the offence of maliciously destroying, &c., the banks and locks, &c., on navigable rivers, see the 7 & 8 Geo. IV. c. 30, s. 12, 13, 14; "**Malicious Injuries to Property**," Vol. III.

As to the offence of stealing from ships, &c., on rivers, &c., see the 7 & 8 Geo. IV. c. 29, s. 17; "**Larceny**," Vol. III.

— to wit: *Be it remembered, that on, &c., at, &c., A. B., of, &c., who as well for our lord the king as for himself doth prosecute in this behalf, personally cometh before me, J. P., one of his majesty's justices of the peace for the said county, residing near the place where the offence hereinafter mentioned was committed, and as well for our said lord the king as for himself, informeth me, that C. D., of, &c., within the space of twelve calendar months now last past, to wit, on the, &c., at, &c., in the said county, being then and there master, and a person having the charge of a certain private (b) vessel, called _____, did cast, throw, empty, and unlade, and cause and procure to be cast, thrown, emptied, and unladen, from and out of the said vessel, a large quantity, to wit, (c) tons, of ballast, gravel, earth, and rubbish, into a certain navigable river (b) of this kingdom there, called the [Thames], so as to tend to the injury and obstruction of the navigation of the said river; contrary to the form of the statute in such case made and provided: whereby, &c., [as usual, to the end. See "**Conviction**," Vol. I.]*

(a) See the act, and the 19 Geo. II. c. 22, *ante*, 364. A conviction may be readily framed from this precedent, and the form given by the act, *ante*, 369.

(b) See the words of the act, *ante*, 367.

(c) The precise quantity is not material, but state enough.

Robbery.

- I. *The Offence of*, p. 371.
- II. *Indictment for*, p. 379.
- III. *Punishment for*, p. 380.
- IV. *Principal and Accessary*, p. 380.
- V. *Rewards*, p. 381.
- VI. *Levying Hue and Cry in*, p. 381.
- VII. *What to be done with Goods of Person robbed*, p. 381.
- VIII. *Assaults to rob*, p. 381. See "*Assault*," Vol. I.
- IX. *Demanding Money, &c. with Intent to rob*, p. 381. See "*Threats*," *post*.
- X. *Liability of Hundred*, p. 381.
- XI. *Forms*, p. 381.

I. The Offence of.

THERE are two kinds of robbery; from the *person* and from the *house*: Two kinds of robbery. it is the former of these that is treated of under this title; the latter, viz. robbery from the house, belongeth to the titles "*Larceny* and *Burglary*."

Robbery is a *felonious taking of money or goods, to any value, from the person of another, or in his presence, against his will, by violence, or putting him in fear.* (2 *East's P. C.* 707; 4 *Bla. Com.* 243; 3 *Inst.* 68.) Robbery what.

Felonious.]—For to make it robbery there must be a felonious intention; and so it ought to be laid in the indictment. (1 *Hale*, 532; and see fully, as to the felonious intent, "*Larceny*," Vol. III.) A. had set wires, in which game was caught; B., a gamekeeper, found them, and took the game and wires for the use of the lord of the manor. A. demanded them, with menaces, and B. gave them up. The jury found that A. acted under a *bonâ fide* impression that the game and wires were his property. Held, no robbery, but a trespass. (*R. v. Hall*, 3 *C. & P.* 409.) Felonious.

Taking.]—The taking must be against the will of the owner, and, to constitute the crime of robbery, the property must be taken from the person either by violence or by putting him in fear; either of these circumstances is sufficient. But no sudden taking of a thing unawares from the person, as by snatching any thing from the head or hand, is sufficient unless some injury be done to the person, or unless there be some previous struggle for the possession of the thing taken. If a robber cut a man's girdle in order to get his purse, and the purse thereby fall to the ground, and the robber run off, or be apprehended before he can take it up, this would not be robbery, because the purse was never in the possession of the robber. (1 *Hale*, 583; 1 *Leach*, 228.) Taking.

Where the defendant drew a book from the inside pocket of the prosecutor's coat, about an inch above the top of the pocket, but whilst the book was still about the person of the prosecutor, the prosecutor suddenly put up his hand, upon which the defendant let the book drop, and it fell into the prosecutor's pocket; this was holden, by a majority of the judges, not to be a sufficient asportation to warrant a conviction for stealing from the person, because, from the first to the last, the book remained about the person of the prosecutor; although it was sufficient to constitute a simple larceny. (*R. v. Thompson*, *R. & M.* 78; and see further as to what is a taking, *ante*, "*Larceny*," Vol. III.)

1. Offence of.

The money or goods.

Money or Goods.]—At common law, the goods taken must be such as would constitute the crime of larceny; (see "*Larceny*," Vol. III.); but the 7 & 8 Geo. IV. c. 29, s. 6, *post*, 380, extends the taking to any "*chattel, money, or valuable security*."

The value of the goods is immaterial: 1 *Hale*, 532. But they must be of some value to the party robbed; and, therefore, where the defendant compelled the prosecutor, by threats, to give her his promissory note for a sum of money, it was holden by the judges not to be a robbery, because the note was of no value to the prosecutor. (*R. v. Phipoe*, 2 *Leach*, 673; see "*Larceny*," Vol. III.)

In *R. v. Bingley*, 5 *C. & P.* 602, the prisoner attacked the prosecutor, and took from him a piece of paper, containing a memorandum of money that a person owed him, and *Gurney*, B., held it sufficient to constitute robbery.

From the person of another.

From the Person of Another, or in his Presence.]—The goods must be proved to have been taken, either from the person of another or in his presence. (*R. v. Grey*, 2 *East's P. C.* 708; and see *R. v. Francis*, 2 *Stra.* 1015.) If a thief put a man in fear, and then in his presence drive away his cattle, it is robbery. (1 *Hale*, 533.) So, if a man, being assaulted by a robber, throw his purse into a bush; or, flying from a robber, let fall his hat; and the robber, in his presence, take up the purse or hat and carry it away, this would be robbery. (1 *Hale*, 533.) Upon an indictment for robbery, it appeared that the prosecutor was in company with another, who had the prosecutor's bundle, and who, upon the prosecutor being attacked with great violence by the prisoner, dropped down the bundle, and ran to the prosecutor's assistance, when one of the prisoners took up the bundle, and ran off with it—*Vaughan*, B., held, that this was not robbery, because the bundle was not in the prosecutor's possession at the time. (*R. v. Fallows*, 5 *C. & P.* 508.)

Against his will.

Against his Will.]—The goods must be taken against the will of the party robbed. Therefore, where the party robbed concerted and connived at the robbery, and got one of his confederates to procure two strangers to commit it, for the purpose of getting a reward upon the apprehension and conviction of the strangers, the judges held that it was not a robbery, because the property was not taken against the party's will. (*R. v. M'Daniel et al.*, *Fost.* 121. (a))

(a) *Against the Will.*] In the case of *M'Daniel, Berry, Eagan*, and *Salmon*, who were indicted as accessories before the fact of a robbery committed by *Kelly* and *Ellis* on the person of the said *Salmon*, it appeared that all the prisoners, and one Thomas Blee, in order to procure themselves the rewards given by act of parliament for apprehending robbers, met at the Bell Inn, in Holborn, and agreed that Blee should procure two persons to commit a robbery on the prisoner *Salmon*; and that for that purpose they contrived that Blee should inform the persons so to be procured that he would assist them in stealing some linen in Deptford; that in pursuance of this agreement, and with the privity of all the prisoners, Blee procured *Ellis* and *Kelly* to go with him to Deptford in order to steal linen, but did not at any time before the robbery inform them of the intended robbery; that they went with Blee to Deptford, and the prisoner *Salmon* being likewise waiting there, in pursuance of the agreement, they robbed him of the money and goods mentioned in the indict-

ment. This case was argued before all the judges, who were unanimously of opinion that, supposing a robbery to have been committed, all the prisoners were guilty as accessories before, except *Salmon*, who could not be accessory to the robbing of himself. But, forasmuch as the goods were taken from *Salmon* in pursuance of the agreement before mentioned, they were of opinion that, in legal construction, he was not robbed at all, since it is of the essence of robbery, that the goods be taken against the will of the owner; although the circumstance of putting in fear is perhaps not necessary to be inserted in the indictment; at least it need not to be strictly proved: for, if a man be knocked down without any previous warning, and thereby rendered insensible, or if he manfully resist and be overpowered without being under any fear at all, it is not the less robbery upon that account. And the prisoners were discharged of the indictment. But afterwards an indictment was found against them, and prosecuted at the expense of the crown, on the representation of the

By Violence.—In a case where a lady was stepping into her carriage, the prisoner snatched at her diamond ear-ring, and separated it from her ear by tearing the ear entirely through, but there was no proof of the ear-ring ever having been seen in his hand, and, upon the lady's arrival at home, it was found amongst the curls of her hair; the judges, on a case reserved, were all of opinion, that there was a sufficient taking from the person to constitute robbery. They thought that it was sufficient, as the ear-ring had been in the possession of the prisoner, separate from the lady's person, though but for a moment, and though he could not retain it, but probably lost it again the same instant. (*Lapier's case, O. B., May, 1784, 1 Leach, 320.*)

1. Offence of.

By violence,

Snatching an article from a man will constitute robbery, if it be so attached to his person or clothes as to afford resistance. (*R. v. Mason, R. & R. C. C. 419; 2 R. C. & M. 68.*) The prosecutor's watch was fastened to a steel chain, which went round his neck; the seal and chain hung from his fob. The prisoner laid hold of the seal and chain, and pulled the watch from the fob, but the steel chain still secured it: upon which the prisoner, by two jerks, broke the steel chain and made off with the watch. Case saved for the opinion of the judges upon the question, whether this was a robbery?—The judges were unanimous that it was, as the prisoner did not get the watch at once, but had to overcome the resistance made by the steel chain, and used actual force.

Where the prisoner caught hold of the prosecutor's watch chain, and jerked his watch from his pocket with considerable force, upon which a scuffle ensued, and the prisoner was secured:—*Garrow, B.*, held that the force used to obtain the watch did not make the offence amount to robbery, nor did the force used afterwards in the scuffle; for the force necessary to constitute robbery must be either immediately before or at the time of the larceny, and not after it. (*R. v. Gnosil, 1 C. & P. 304.*)

The rule appears to be well established, that no sudden taking or snatching of property unawares from a person is sufficient to constitute robbery, unless some injury be done to the person, or there be a previous struggle for the possession of the property, or some force used to obtain it. (*Jervis' Arch. C. L. 216, 6 ed.*)

Or by putting him in Fear.—Robbery may also be constituted by putting or by putting him in fear as well as by force; or perhaps, in strictness, it may be said that fear will supply the place of force; yet it is not necessary that actual fear should either be laid in the indictment or strictly and precisely proved, provided the property be taken with such circumstances of violence or terror, or threatening by word or gesture, as would, in common experience, induce a man to part with it from an apprehension of personal danger; for the law, *in odium spoliatoris*, will presume fear where there appears to be so reasonable a ground for it. But it is necessary that it be taken against the will of the party. (*2 East's P. C. 711; 1 Hale, 533.*)

A colourable gift, which in truth was extorted by fear, amounts to a taking and trespass in law. As, if a person with a drawn sword, or other circumstances of terror, indicating a felonious intent, beg alms of another, who gives it him through mistrust and apprehension of violence, the offence is the same, notwithstanding the pretence. So it is whether there were any weapon drawn or not; or whether it were an offensive weapon; or whether the person assaulted delivered his money upon the other's command, or afterwards gave it him upon his ceasing to use force, and asking it for alms; for the owner was put in fear by the assault, and there remained a reasonable

judges, for a conspiracy; in which the principal facts found by the special verdict in the robbery bill were charged. On this indictment they were all convicted; and the court gave judgment, that they be all set in and upon the pillory twice; that they stand committed for seven years, and until they find sureties for their good

behaviour for three years afterwards. One of them (Eagan) lost his life in the pillory, through the resentment of the populace, and on that account the others did not stand a second time. But they were all in Newgate very closely confined, in pursuance of their sentence. (*Fost. 121; 19 How. St. Tr. 814.*)

1. *Offence of.* ground for its continuance. (2 *East's P. C.* 711; 1 *Haw. c.* 34, s. 6; *Fost.* 128.)

The same rule holds, although the thing taken were not really within the original contemplation of the robber, nor the object of his pursuit at the time.

Blackham assaulted a woman with intent to commit a rape, and she without any demand from him offered him money, which the prisoner took and put into his pocket, but continued to treat her with violence, to effect his original purpose, till he was interrupted by the approach of another person. This was holden to be robbery by a considerable majority of the judges: for the woman, from violence and terror, occasioned by the prisoner's behaviour, and to redeem her chastity, offered the money, which it was clear she would not have given voluntarily; and the prisoner, by taking it, derived that advantage to himself from his felonious conduct; though his original intent was to commit a rape. (*R. v. Blackham*, *T. T.* 1787; 2 *East's P. C.* 711.)

During the riots in London, in the year 1780, a boy with a cockade in his hat knocked violently at the door of the prosecutor, *Mahon*, who thereupon opened it; and the boy said to him, "God bless your honour, remember the poor mob." *Mahon* told him to go along, on which he said, "Then I will go and fetch my captain." He went; and the mob, to the amount of 100, armed with sticks and whatever they could get, soon after came, headed by the prisoner, *Thomas Taplin*, on horseback, having his horse led by the same boy. On their coming up, the by-standers said, "You must give them money;" and the boy said, "Now I have brought my captain." *Mahon* then asked the prisoner, "How much?" who answered, "Half-a-crown, sir." On which *Mahon*, who had before only intended to give a shilling, gave the prisoner the half-crown. This was holden to be a robbery. (*Taplin's case*, *O. B. June*, 1780, *cor. Nares, J.*, *East's P. C.* 712.)

Another case of the like sort occurred, upon the trial of some of the rioters in the year 1780. The indictment was for robbing the prosecutor, *Daking*, in his dwelling-house; into which *Daking* swore that the prisoner, *William Brown*, and another man entered; and being asked by him what they wanted, *Brown* having a drawn sword in his hand, said with an oath, "Put one shilling into my hat, or I have a party that can destroy your house presently:" on which the prosecutor gave him a shilling. Another witness present swore, that the prisoner also used the expression, that "if he (*Daking*) would keep the blood within his mouth, he must give the shilling." The offence was holden to be robbery. (*Brown's case*, *O. B. June*, 1780, *cor. Nares, J.*; 2 *East's P. C.* 731.)

If persons who had formed part of a mob, obtain money from a party by advising him to give money to the mob, and be indicted for this as a robbery—the prosecutor, to show that this was not *bonâ fide* advice, may give evidence of demands of money made by the same mob at other places before and afterwards in the course of the same day, if any of the prisoners were present on those occasions. (*R. v. Winkworth*, 4 *C. & P.* 444.)

In *Simon's case*, it appeared that the prisoners took a bushel and a half of wheat, worth 8s., and obliged the owner to take 13½d. for it, threatening to kill her if she refused; this was holden to be a robbery by all the judges, on a conference. (*R. v. Simons*, *Cornwall Lent Assizes*, 1783; 2 *East's P. C.* 712.)

So, in *Spencer's case*, the prosecutor, *Anderton*, having in his possession corn belonging to other persons, the prisoner came to him, together with a mob marching in military order; and one of the mob said, that if he would not sell they would take it away; the prisoner said, that they would give 30s. a load, and if he would not take that, they would take the corn away, on which the prosecutor sold that for 30s. which was worth 38s.: this was holden to be robbery, and the prisoner was convicted and executed. (*Spencer's case*, *York Summer Assizes*, 1783, *cor. Buller, J.*, 2 *East's P. C.* 712.)

No case, however, has gone further than that of *James and Ezekiel Astley*, who were indicted for robbing *Jonathan Grundy*. It appeared that the prisoners and a person unknown went to a public-house near Birmingham,

during the time of the late riots, which was three or four hundred yards from Mr. G.'s house, early in the morning, where one of them said that they were going up to Mr. G.'s house, "and if he did not turn out the whack, his house would be down by two o'clock in the morning;" on which the stranger observed that he himself would do it; that he was the head of the mob, and had three or four hundred men at command at any time; with other like discourse. They all departed towards Mr. G.'s house; but before they arrived there they saw his servant at a little distance from it, whom they accosted, *James Astley* telling him he was come as a friend to let Mr. G. know that this man (the stranger) was the head of the mob, and the first man who had entered all the places which were destroyed at Birmingham. They then, seeing Mr. G. come out of his house, pulled off their hats, and shouted "Church and King." Mr. G. did the same, advancing towards the prisoners in much alarm, when the stranger accosted him, saying, "I am come out of friendship to you, Mr. G., to let you know your house is marked to come down to-morrow morning at two o'clock. I am the head of the mob: they are two thousand strong in Birmingham. I must have something to make my men drink. I can bring two or three hundred in an hour's time, or keep them back." Mr. G. said, "As to something to drink, you shall have anything you have a mind for." The stranger said, "I must have money." Mr. G. pulled out half-a-crown from his pocket, and offered it to him; but the stranger refused it, and turned away with expressions of contempt. Mr. G. then asked what he wanted; the stranger replied, he must have twenty guineas; and on Mr. G. saying that he had not so much in his house, the other told him, that if he did not give him something handsome for his men to drink, his house should come down. Mr. G. said, that he might have nine or ten guineas, which the stranger asked to see: and as Mr. G. was taking his purse out of his pocket, *James Astley* told him he might depend upon it that the other man was at the head of the mob, and the like sort of discourse which had passed before concerning his power; particularly, that he was the first man who had entered every house that had been destroyed. Mr. G. was so struck with that expression, that he immediately took the money out of his purse (nine guineas and a half), which he gave to the stranger, who counted it, and demanded to have something to drink. They all then went into Mr. G.'s house, where they had liquor, and in going away assured him that he should be protected. Mr. G. said that he was greatly alarmed, but not for his person; that no injury was threatened to his person; that when he delivered his money his apprehension was, that if he had refused so to do, the prisoners would have gone to Birmingham, and have returned with other persons, and pulled down his house and plundered it before he could have removed his wife, who was in the house, in great agitation, as the prisoners had threatened, and in the same manner as different houses in Birmingham had been before pulled down. It appeared that the prisoners had a small share of the money afterwards. It was objected to on their behalf, that there was no evidence of robbery, inasmuch as the prosecutor did not deliver his money from any immediate fear of danger to himself or his property, but from an apprehension of future injury to his house by pulling it down. And the counsel for the crown admitting it to be a new case, *Grose, J.*, proposed to have a special verdict found; but, on account of the prisoners' situation, it was agreed that the truth of the evidence should be left to the jury, and if they should find the prisoners guilty, the judgment should be respited, and the facts submitted to the judges for their opinion, whether the evidence amounted to robbery. The jury found the prisoners guilty; saying that they were satisfied that Mr. Grundy did not deliver his money from any apprehension of danger to his life or person, but from an apprehension that, if he refused, his house would at some future time be pulled down, as the prisoners and the stranger threatened, in the same manner as other houses in Birmingham had been before. In Michaelmas term, 1792, a majority of the judges held this to be robbery. (*R. v. J. Astley and E. Astley, Stafford Summer Assizes, 1792, cor. Grose, J., 2 East's P. C. 729.*)

1. *Offence of.*

But, in *R. v. Wood and Knewland*, who, under pretence of an auction, got a woman into a house, and compelled her, by threats of carrying her before a magistrate and to prison, for not paying for a lot pretended to have been bid for by her, to pay them 1s. through fear of prison, and for the purpose of obtaining her liberty, but without fear of any other personal violence—this was holden to be duress, and not robbery. *Ashhurst, J.*, in delivering the opinion of the judges, observed, that there was no reason for such a degree of terror in this case as to induce the prosecutrix to part with her money: she might have known that, having done no wrong, if she had been taken to prison, the law would have taken her under its protection, and set her free; and that the law did not allow the fear of being sent to prison to be a sufficient ground of terror to constitute a robbery.

Degree of fear.

Circumstances from which the court and jury may presume such a degree of apprehension of danger as would induce the prosecutor to part with his property, are sufficient to constitute fear. (*Fost. 128.*) Therefore, if a man knock another down, and steal from him his property whilst he is insensible on the ground, this is robbery. (*Fost. 128.*) A stage-coach having frequently been robbed on a particular road, J. N. went in it for the purpose of apprehending the robber. The robber met the coach, presented a pistol, and demanded money of the passengers; J. N. accordingly delivered his money, but immediately afterwards jumped out of the coach, and, with the assistance of others, secured the robber: and this was holden to be robbery. (*Fost. 129.*) So, where the defendant tore a lady's ear through, in snatching an ear-ring from it, the judges held it to be robbery. (*R. v. Lapier, 1 Leach, 320; ante, 373.*)

But merely snatching property from a person unawares, and running away with it, will not be robbery, (*R. v. Steward, 2 East's P. C. 702; R. v. Horner, Id. 703; R. v. Baker, 1 Leach, 290; R. v. Macauley, Id. 287*); because fear cannot, in fact, be presumed in such a case. (See *ante, 373.*)

Fear of loss of character by threats.

The cases of robbery in which the property has been obtained by means of a fear being excited of injury to the character of the party robbed, appear to be confined to insinuations against, or threats to destroy, the character of the party pillaged, by accusing him of sodomitical practices. (*2 Rus. 1009.*) The fears unavoidably excited by these means have, on several occasions, been determined by the judges to be sufficient to constitute the crime of robbery. The bare idea of being thought addicted to so odious and detestable a crime is, of itself, sufficient to deprive the injured person of all the comforts and advantages of society; a punishment more terrible, both in apprehension and reality, than even death itself. The law, therefore, considers the fear of losing character by such an imputation as equal to the fear of losing life itself, or of sustaining personal injury. (*Per Ashhurst, J.*, in delivering the opinion of the judges in *R. v. James Knewland and Nathaniel Wood, O. B. Feb. Sess. 1796; 2 Leach, 730.*)

In the case of *Thomas Jones alias Evans*, the prisoner was convicted at the *O. B. June Sess. 1776*, of a robbery, in extorting money by threatening to charge the prosecutor with sodomy, the prosecutor swearing that he was so alarmed by the idea, that he had neither courage nor strength to call out for assistance, and that the violence with which he had been detained in the street by the prisoner, had put him in fear for the safety of his person. (*R. v. Jones alias Evans, 1 Leach, 139; 2 East's P. C. 714, S. C.*)

Robert Harrold was afterwards convicted for a similar robbery, with the approbation of the judges. (*2 East's P. C. 715.*)

This matter was afterwards most deliberately considered in *Donolly's case*, who was tried at the *O. B. Feb. Sess. 1779*, for a highway robbery. It appeared, that as the prosecutor (the Hon. C. Fielding), a young gentleman, was passing through Soho Square, between six and seven o'clock in the evening, he met the prisoner, whom he had never seen before. The prisoner desired that he would give him a present. The prosecutor asked, for what? The prisoner answered, "You had better comply, or I will take

you before a magistrate, and accuse you of an attempt to commit an unnatural crime." The prosecutor then gave him half-a-guinea, which the prisoner said was not sufficient; but Mr. F. had no more in his pocket. Two days after, in the evening, the prosecutor again met the prisoner in Oxford Street, who made use of the same threats as before, telling the prosecutor that he knew what passed in Soho Square, and unless he would give him more money, he would take him before a magistrate, and accuse him of the same attempt; adding, that it would go hard with him, unless he could prove an *alibi*. The prosecutor then went into an adjoining shop, whither the prisoner followed him, and stayed at the outside of the door. The prosecutor took a guinea out of his pocket, and gave it to the shopkeeper, desiring him to give it to the man at the door, which was done, and the prisoner then departed. The prosecutor then deposed, that he was exceedingly alarmed on both occasions, and under that alarm gave the money; that he was not aware what were the consequences of such a charge, but apprehended it might cost him his life. The jury were desired to consider, 1st, whether upon the evidence, they were satisfied that the prosecutor delivered his money through fear, and under an apprehension that his life was in danger; or, 2dly, if they did not think that the prosecutor apprehended his life was in danger, whether the money were not obtained by means of the prisoner's threats, and against the will of the prosecutor; for, if it were, even in that case, though he were not in fear of his life, the crime would amount to robbery. The jury found the prisoner guilty; and said they were satisfied that the prosecutor delivered his money through fear, and under an apprehension that his life was in danger. There being some difference of opinion among the judges on this case, they directed it to be argued before them, which was done on the 29th April, 1779, at Lord C. J. De Grey's house, present all the judges; when, after very full consideration, they at length all agreed that the case amounted to robbery. (*R. v. Donolly*, O. B. Feb. 1779, cor. Buller, J., 2 *East's P. C.* 715; 1 *Leach*, 193.)

In the *May Old Bailey Sessions* following, 1779, *Sess. Pap.*, No. 5, p. 3; 2 *East's P. C.* 726; *Willes*, J., in giving judgment (after noticing the definition of robbery by Lord *Hale* and others to the same effect), observed, that the following ingredients were necessary to constitute that offence:—

1. A felonious intent, or *animus furandi*.
2. Some degree of violence or putting in fear.
3. A taking from the person of another.

He observed, that he should confine himself to show that the prisoner's offence came within the above description, as the judges did not mean to draw the line as to what should or should not constitute robbery, and therefore they declined giving an answer to the cases put by the prisoner's counsel, urging that every case must depend upon its own conviction; but that the facts, in this case, warranted them in saying, as to the first point, that there was a felonious intention in the prisoner to rob the prosecutor. Upon the second point, that the putting in fear was not necessary to be laid in the indictment, so that the facts were charged to be done violently and against the will of the party. Nor was the circumstance of actual fear necessary to be proved; but that the law, in *odium spoliatoris*, would presume it. In like manner, it had been often holden that actual violence was not necessary, but that constructive violence was sufficient; for, where such a terror was impressed on the mind as did not leave the party a free agent, and, in order to get rid of that terror, he delivered his money, it was robbery. It was also clear that no actual danger was necessary; for a man might commit robbery without having any offensive weapon; and though a tinder-box or candlestick were used. For when a villain came and demanded a man's money, no one knew to what length he would proceed. That here the situation of the prosecutor was that of a young gentleman accosted at night in the street by a stranger, whom he had never before seen, and must have suspected to be a villain, who demanded a present. Even that seemed sufficient; but the stranger went on and told him that he had better comply, &c. That was a threat of a personal injury, for he had every thing to fear

1. *Offence of.* in being dragged through the streets as a culprit charged with an unnatural crime. That, therefore, was a reasonable fear; which might operate *in constantem*, as well as *in meticulosum virum*. It had, he said, been urged on behalf of the prisoner, that this was a fraudulent extorting, and not a taking by violence. But in many cases fraud would supply the want of violence; as in the case of burglary, where breaking was necessary to be laid in the indictment, and yet getting admission into a house under colour of law or pretence of taking a lodging or business had been often holden sufficient evidence of the breaking into the house. But the judges, he observed, did not entirely determine this case on that ground, but were of opinion, that there was proof of a constructive violence, which they thought was sufficient. As to the third point, that there was clearly a taking from the person; though a taking in the presence of the party would have been sufficient. After citing the above-mentioned cases of *Jones*, *Brown*, and *Harrold*, he observed, that in those cases there was this difference from the present, that there was some actual violence proved, as taking by the collar or arm; but that the judges all held that that did not make any material distinction, but that sufficient was proved in this case for the jury to find the prisoner guilty of robbery.

In the October sessions following, *John Staples* was convicted of a similar offence, and executed. (*Staples' case*, *O. B.*, 1779.)

David Hickman was indicted for robbing *John Millard*, in St. James's Palace, of two guineas. He obtained the money from the prosecutor by charging him with a similar crime as in the foregoing cases; and by threatening, that if he did not make him satisfaction, he would bring a sergeant and a file of men to take him up before a magistrate. The prosecutor swore that he parted with his money for fear of losing his character, and that he had no other fear. The jury found the prisoner guilty; but as some of the bench thought that this case differed from that of *Donolly*, it was reserved for the opinion of the judges; who, in November, 1783, were all of opinion that it was robbery. *Ashhurst*, J., afterwards, *Old Bailey*, Feb. 1784, 1 *Leach*, 279, delivered their opinion, that this did not materially differ from the case of *Donolly*; for that the true definition of robbery is the stealing or taking from the person or in his presence, property of any amount, with such a degree of force or terror, as to induce the party unwillingly to part with his property; and that, whether the terror arose from real or expected violence to the person, or from a sense of injury to the character, the law made no kind of difference: for, to most men, the idea of losing their fame and reputation was equally, if not more terrific, than the dread of personal injury. That the principal ingredient in robbery was a man's being forced to part with his property. And that the judges were unanimously of opinion, that, upon the principles of law and the authority of former decisions, a threat to accuse a man of having committed the greatest of all crimes was a sufficient force to constitute the crime of robbery by putting in fear. (*Hickman's case*, *Old Bailey*, July, 1783, 2 *East's P. C.* 728.)

Obtaining money by threatening to charge a man with an unnatural crime, and to carry him before a magistrate, is a robbery, if there is any constraint on his person; and if the prisoners call a coach to carry the party before a magistrate, and the prosecutor get into it, such is a constraint upon his person. (*R. v. Thomas Cannon and Another*, *R. & R. C. C.* 146.)

Fear or loss of character and service on a charge of sodomitical practices is sufficient to constitute robbery, though the party had no fear of being taken into custody or of punishment. (*R. v. Egerton*, *R. & R. C. C. R.* 375.)

But parting with property upon the charge of an unnatural crime, will not make the taking a robbery, if it is parted with, not from fear of loss of character, but for the purpose of prosecuting. (*R. v. Fuller*, *Id.* 408.)

The intimidation must be on the mind of the person threatened to be accused; and, therefore, it is not robbery to obtain money from a woman under a threat of accusing her husband. (*R. v. Edward*, 1 *M. & Rob.* 257.)

The intimidation must be on mind of party threatened.

It is equally a robbery to extort money from a person by threatening to accuse him of an unnatural crime, whether the party so threatened has been guilty of such crime or not. (*R. v. Gardner*, 1 C. & P. 479.)

2. *Indictment for.*

If the property be not taken by actual violence, and the owner only deliver it in consequence of prior threats, such delivery must be enforced by terror actually felt at the time, to constitute the crime; otherwise there is neither actual nor constructive violence in the taking, and, consequently, no robbery. (2 *East's P. C.* 733.)

Guilt of party threatened immaterial.

Where no force, there must be terror in fact

It is not enough that the fear arise after the property is taken. Harman, being on horseback, desired Halfpenny to open a gap for him; and while he was so doing, Harman took the opportunity, unperceived, to pick his pocket of his purse. Halfpenny, turning round, and seeing the purse in Harman's hand, demanded it of him, who then menaced Halfpenny (in the manner before-mentioned), and went away with the purse. On an indictment for robbery, the prisoner was holden guilty of simple larceny only; the property being obtained by stealth, and not by violence or putting in fear; the words of menace being used after the taking. (*Harman's case*, Hil. 17 Jac. 2; *Roll. Rep.* 154; 1 *Hale*, 534.)

Fear after the taking not sufficient.

In the case of *Jackson and Shipley*, Nottingham Spr. Ass. 1802, before Mr. Baron Graham, it was decided, on a case reserved, that to constitute robbery by taking money from another upon a threat to charge him with an unnatural crime, the money must be taken *immediately* upon the threat made, and not after the parties have separated, and time for the prosecutor to deliberate and procure assistance, and especially after he had consulted a friend, who was even present at the time when the money was paid, though the prosecutor parted with his money from fear of losing his character. (*R. v. Jackson and Shipley*, 1 *East's P. C.*, Add. XXI.; and see *R. v. Reeve*, 2 *Leach*, 616.)

But, now, the 7 & 8 Geo. IV. c. 29, s. 7, declares it to be robbery, if any person shall accuse, or threaten to accuse, any other person of any infamous crime, as thereafter defined, with a view or intent to extort or gain from him, and shall, by *intimidating* him by such accusation or threat, extort or gain from him any chattel, money, or valuable security.

Except in threats to accuse of unnatural crimes.

And sect. 9 declares, that the abominable crime of *buggery*, committed either with mankind or with beast, and every *assault with intent* to commit the said abominable crime, and every *attempt or endeavour* to commit the said abominable crime, and every *solicitation, persuasion, promise, or threat* offered or made to any person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of that act. (*Ante*, "Larceny," Vol. III.)

Under the 4 Geo. IV. c. 54, s. 3, which made it felony to threaten to accuse a person of an infamous crime with a view to extort money, a charge of *making overtures* to commit sodomy was held not to be an infamous crime within the act, and that such overtures would not subject the party making them to an infamous crime, or prevent his being a witness. (*R. v. Hickman*, R. & M. C. C. 34.) But this is remedied by the above clause, which defines the nature of an infamous crime.

II. Indictment for Robbery.

The venue must be laid in the county where the crime actually took place. (2 *Leach*, 634.) See, as to the venue in robbing the mail, *ante*, "Post-Office;" see also, as to the venue in cases where the place of committing the offence is doubtful, "Indictment," Vol. III. p. 415, 416.

Indictment for.

The putting in fear need not be laid in the indictment, so that the fact be charged to be done violently and against the will of the party. (*R. v. Donolly*, *ante*, p. 376, 377; *Fost.* 128; 1 *Hale*, 534.)

The term *violently* is not absolutely requisite, so that it otherwise appear violence was used. (2 *East's P. C.* 783.)

3. *Punishment for.*

The assault must be laid to have been *feloniously* made. (2 *Leach*, 564.) Where the indictment stated that the robbery was in a field *near the king's highway*, and it was not proved that it was *near any highway*, it was considered that the allegation of the robbery being in a field *near the highway* was immaterial, for the 3 & 4 Wil. & Mary, c. 2, took away clergy, let the robbery be where it might. (*R. v. Wardle*, *R. & R. C. C.* 9.) And so, where the indictment charged that the prisoner robbed A. B. in the dwelling-house of J. S., and the robbery was proved, and that it was in the house, but whose house it did not appear, this was held immaterial. (*R. v. Pye*, *R. & R. C. C.* 9, 10, n.)

As to the mode of describing the goods, and the ownership thereof, see "Endictment," Vol. III. p. 435; "*Larceny*," Vol. III.

The indictment need not conclude against the form of the statute, unless, perhaps, the robbery be of some security or chattel not the subject of larceny at common law.

On the trial, should it appear that any of the circumstances of robbery are wanting, but the taking is proved, the defendant may be acquitted of the aggravated offence, and found guilty of simple larceny. (*R. v. Francis*, *Rep. temp. Hardw.* 115; *Com. Rep.* 478; 2 *Stra.* 1014, S. C.)

If the property be once taken, the offence will not be purged by the robber delivering it back to the owner. (1 *Hale*, 533; 1 *Haw.* c. 34, s. 2; *R. v. Peat*, 1 *Leach*, 228.)

III. Punishment for Robbery.

Punishment for.

Robbery is generally inflicted with the heaviest punishment. (See 3 *Inst.* 68; 2 *Hale*, c. 48.)

By the 7 & 8 Geo. IV. c. 29, s. 6, if any person shall rob any other person of any chattel, money, or valuable security, every such offender, being convicted thereof, shall suffer death as a felon; and if any person shall steal any such property from the person of another, or shall assault any other person with intent to rob him, or shall with menaces or by force demand any such property of any other person with intent to steal the same, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment." This sentence of death may be recorded. See 4 Geo. IV. c. 48.

See the general clauses of this act, affecting all its provisions, title "*Larceny*," Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals the 23 Hen. VIII. c. 1, 3 Wil. & Mary, c. 9, and so much of the 1 Edw. VI. c. 12, as relates to housebreaking, robbing, horse-stealing, and sacrilege, and to the allowance of the benefit of clergy in any case therein mentioned: so far the repeals go to robbery.

By the 22 Geo. II. c. 33, robbery in the navy shall be punished with death, or otherwise, as a court-martial, on consideration of the circumstances, shall find meet.

IV. Principal and Accessary.

Principal and accessary.

All that come in company to rob are principals, though one actually do it. (*Hale's Sum.* 72.)

If a gang of poachers attack a gamekeeper, and leave him senseless on the ground, and one of them return and steal his money, &c., that one only can be convicted of the robbery, as it was not in pursuance of any common intent. (*R. v. Hawkins*, 3 *C. & P.* 392.)

As to accessaries in general, see "*Accessary*," Vol. I.

V. Rewards.

5. Rewards.

As to rewards for apprehending robbers, see, *ante*, "Reward."

Rewards.

VI. Laying Hue and Cry on a Robbery.

How hue and cry shall be made, see "Hue and Cry," Vol. III.

Hue and cry.

VII. What shall be done with the Goods of the Person robbed.

If the person robbed do not prosecute the robber; unless his goods be waived in flight, or seized by the king's officers, or lord of the manor, he shall not have them restored. (*Kel.* 49.)

Restitution of goods taken by robbery.

But if they be not waived in flight, nor seized by the king's officers or the lord of the manor, he may take his goods again wherever he finds them, without the formality of restitution being awarded, if they be not sold in open market; and this, also, although he do not prosecute the robber. (*Kel.* 49.)

But if he shall prosecute the robber to conviction, he shall have restitution, although they have been waived, and seized, and even sold in open market. (*Kel.* 48.) See further, "Larceny," (*Restitution*) Vol. III.

VIII. Assaults with Intent to rob.

This offence has already been noticed, under title "Assault," Vol. I. p. 287. It is provided against by the 7 & 8 Geo. IV. c. 29, s. 6.

Assaults to rob.

IX. Demanding Money, &c. with Intent to rob.

This offence will be found treated of under title "Threats," Vol. VI. It is provided against by the statute 7 & 8 Geo. IV. c. 29, s. 6, 7.

Threats to rob.

X. Liability of Hundred.

It seems the hundred are now no longer liable in cases of robbery, but only for damages done by rioters. See "Hundred," Vol. III.

Liability of hundred.

XI. Forms.

The form of a warrant for apprehending a robber upon fresh suit is inserted under the title of "Hue and Cry," Vol. III. p. 358.

Commencement as usual, *ante*, p. 175, Form No. I.] on the _____ day of _____, (1.) Commitment
A. D. _____, at the parish of _____, in the said county, in and upon [the
said] A. B. feloniously did make an assault, and him the said A. B. in bodily
fear and danger of his life feloniously did put, and [five pieces of the current
gold coin of the realm, called sovereigns, and one gold watch,] of the monies,
goods, and chattels of the said A. B., from the person and against the will of the
said A. B. feloniously and violently did steal, take, and carry away. And you
the said keeper, &c. [as usual, as *ante*, p. 175, No. 1, to the end.]

_____ (venue). The jurors for our lord the king upon their oath present, (2.) Indictment
that A. O., late of the parish of _____, in the county of _____, labourer, on the _____
day of _____, in the _____ year of the reign of our lord the now king,
William the Fourth, with force and arms, &c., in the county of _____, in and
upon one A. B., in the peace of God, and of our said lord the king, then and
there being, feloniously did make an assault, and him the said A. B. in bodily
fear and danger of his life then and there feloniously did put, and [one gold
watch, of the value of _____] [as to describing the goods, &c., see "Larceny,"
Vol. III.], of the goods and chattels of him the said A. B., from the person and
against the will of the said A. B., then and there feloniously and violently did
steal, take, and carry away; against the peace of our said lord the king, his
crown and dignity. [Add other counts, as the case may suggest. If the property
stolen be not the subject of larceny, such as "valuable securities," conclude the in-
dictment "against the form of the statute in such case made and provided."]

11. *Forms.*
(3.) Indictment
for stealing from
the person.

Commence in the preceding form]—*in the county aforesaid, six pieces of the current gold coin of the realm, called sovereigns, of the value of six pounds, of the monies, goods, and chattels of A. B., from the person of the said A. B. then and there feloniously did take, steal, and carry away; against the peace of our lord the king, his crown and dignity. [If "valuable securities" be stolen, conclude "against the form of the statute in such case made and provided."]*

Riot. See "Riot," ante, 332.

Rule of Court, Proof, &c., of. See "Evidence," Vol. II. p. 53.

Rum. See "Excise," Vol. II.

Run Goods. See "Excise," Vol. II.

Sabbath. See "Lord's Day," Vol. III.

Sacrilege.

7 & 8 Geo. 4, c. 29.
Sacrilege.

By stat. 7 & 8 Geo. IV. c. 29, s. 10, "if any person shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel, shall break out of the same, every such offender, being convicted thereof, shall suffer death as a felon." See the general clauses affecting all the provisions of the 7 & 8 Geo. IV. c. 29, ante, "Larceny," Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals the 23 Hen. VIII. c. 1, and also so much of the 1 Edw. VI. c. 12, as relates to this offence.

5 & 6 Wil. 4, c. 81.
Punishment of
death for,
abolished.

By 5 & 6 Wil. IV. c. 81, intituled, "An Act for abolishing capital punishments in cases of Letter-stealing and Sacrilege," reciting the 36 Geo. III. c. 1, 52 Geo. III. c. 143, 7 & 8 Geo. IV. c. 29, and 9 Geo. IV. c. 55, it is enacted, that "so much of each of the said acts as inflicts the punishment of death upon persons convicted of any of the offences therein and hereinbefore specified, shall be and the same is hereby repealed, and that from and after the passing of this act every person convicted of any of the offences in the said act so specified, or of aiding or abetting, counselling or procuring the commission thereof, shall be liable to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned, with or without hard labour, in the common gaol or house of correction for any term not exceeding four years."

6 Wil. 4, c. 4.

By 6 Wil. IV. c. 4, intituled, "An Act to amend an Act of the last Session for abolishing Capital Punishments in Cases of Letter-stealing and Sacrilege," reciting, that by the 5 & 6 Wil. IV. c. 81, "the punishment of death was taken away in cases of letter-stealing and sacrilege; but by reason of a clerical error in copying the same a doubt may be entertained whether persons guilty of such offences are now by law liable to any punishment:" it is therefore enacted, "that the same act shall be read as if, instead of the words 'in the said act so specified,' the words 'in the said acts so specified' had been inserted in the said act of the last session; and that all persons who may hereafter be duly convicted of any of the offences mentioned in the said act of the last session shall and may be sentenced, by the court or judge by or before whom such offenders may be tried, to transportation for life or for any term of years not less than seven, or to be imprisoned for any term not exceeding three years, with or without hard labour, and for any period of solitary confinement during such imprisonment, at the discretion of such court or judge."

How 5 & 6 Wil. 4,
c. 81, how shall
be read.

Persons convicted
of offences under
same to be punish-
ed at discretion of
the judge.

What an offence
within act.

If a church-tower be built higher than the church, and have a separate roof, but have no outer door, and be only accessible from the body of the church, from which it is not separated by any partition, this tower is a part of the church, within the meaning of the above act. (*R. v. Wheeler and others*, 3 C. & P. 585.)

The statute is not confined to goods used for *divine service*; it extends to articles kept in the church to keep it in proper repair. And such goods will be under the protection of the statute whilst the church is under repair, unless they are brought in merely for the purpose of such repairs. So ruled by all the judges, in *R. v. Rourke, R. & R. C. C.* 386; 5 *Burn's J.*, 24 ed., S. C.

As to what will constitute a *breaking and entry*, see "*Burglary*," Vol. I.

As to what will constitute *stealing*, see "*Larceny*," Vol. III.

As to the mode of describing the property and ownership, see "*Indictment*," Vol. III. p. 426 to 436; "*Larceny*," Vol. III.; "*Burglary*," Vol. I.

The allegation of property in the parishioners, rector, or churchwardens, will be sufficiently proved, by evidence, that the church is a parish church; but the property in goods in a chapel must be proved as in ordinary cases. (*Jervis' Arch. C. L.* 6th ed. 201.)

Upon an indictment for stealing goods from a dissenting chapel, the first count of the indictment described them as the property of the trustees of the chapel, and the second as the property of a person who was employed to take care of the chapel, kept the keys of the chapel, and received a salary for so doing; the first count was not proved, and the judges held that the second could not be sustained, because the goods could not be considered as belonging to the chapel-keeper. (*R. v. Hutchinsan, R. & R.* 412.)

Where a prisoner was indicted for stealing a bible, a hymn book, and a pair of brass sconces, the property of J. B. and others, which it appeared had been stolen from a methodist chapel at Fakenham, and the bible and hymn book had been presented to the society of methodists there, of which J. B. was one, and also a trustee of the chapel, but the trust deed was not produced; it was held by *Parke, J.*, that as J. B. was one of the society, the property was well laid in him. (*R. v. Boulton, 5 C. & P.* 537.)

The word chapel in the statute has been construed not to apply to chapels of dissenters. Where the prisoner was indicted for breaking and entering a chapel, which appeared from the evidence to be a dissenting chapel—it was held by *Gaselee, J.*, and *Vaughan, B.*, that the statute applied only to chapels of the Church of England; because where the legislature meant to protect the chapels of dissenters, they expressly mentioned them, as in the stat. 7 & 8 Geo. IV. c. 30, s. 2. (*R. v. Warren, 6 C. & P.* 335, n.)

Goods in a dissenting chapel, vested in trustees, cannot be described as the goods of a servant who has merely the custody of the chapel and things in it, to clean and keep in order, though he has the key of the chapel, and no other person but the minister has another key. (*R. v. Hutchinson, R. & R. C. C.* 412.)

As to the *burning* of churches, see "*Burning*," Vol. I.

As to other offences relative to churches, see "*Church*;" "*Common Prayer*," Vol. I.; and "*Lord's Day*," Vol. III.

Burning and other offences as to churches.

Forms.

Commencement as usual, ante, p. 175, Form No. 1.] on the _____ day of _____ (1.) Commitment
 _____, A. D. _____, at the parish of _____, in the said county, the for breaking into a
 church of the parish of A. B. [or, a certain chapel] there situate, feloniously church, &c., and
 did break and enter; and [one silver dish, and one silver cup, according to the fact], stealing therein,
 of the chattels of [the parishioners] of the said parish [see ante, "*Burglary*," on 7 & 8 Geo. 4,
 Vol. I.], feloniously and sacrilegiously did steal, take, and carry away; against c. 29, s. 10.
 the form of the statute in that case made and provided. And you, the said
 keeper, &c., [as usual, as ante, p. 175, No. 1, to the end.]

Commencement as usual, p. 175, Form No. 1.] on the _____ day of _____, (2.) Commitment
 A. D. _____, at the parish of _____, in the said county, [one silver dish, and one silver cup, according to the fact], of the chattels of [the parish- church, &c., and

Forms.

breaking out of
same.

ioners] of the said parish, in the church of the parish of, &c. [or, in a certain chapel,] there situate, feloniously and sacrilegiously did steal, take, and carry away; and the said C. D., being so as aforesaid in the said church [or, chapel], and having therein so committed the said offence as aforesaid, on the same day and year aforesaid, feloniously did break out of the said church [or, chapel]: against the form of the statute in such case made and provided. And you, the said keeper, &c., [as usual as ante, p. 175, No. 1, to the end.]

(3.) Indictment
for sacrilege.

——— (venue). The jurors for our lord the king upon their oath present, that C. D., late of the parish of _____, in the county of _____, labourer, on the _____ day of _____, in the _____ year of the reign of our lord the now king William the Fourth, with force and arms, &c., at the parish aforesaid, in the county aforesaid, the church of the said parish [or, a certain chapel, called, &c.], there situate, feloniously did break and enter, and then and there in the said church [or, chapel], [one silver dish] of the value of 10*l.*, and [one silver cup] of the value of 10*l.*, of the chattels of [the parishioners] of the said parish [see ante, "*Burglary*," Vol. I.], in the church [or, chapel] aforesaid, then and there being found, then and there feloniously and sacrilegiously did steal, take, and carry away: against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown, and dignity. [Add other counts, as the case may suggest, and a count for stealing in a church and breaking out of it.]

If a chapel, which is private property, be broken and entered, lay the property as in other cases of larceny. (*Jerv. Arch. C. L.* 6th ed. 200.)

If a parish church be broken and entered, add a count stating the chattel to be the chattel of the rector, and another stating it to be the chattel of the church-wardens.

See also "*Burglary*," Vol. I.; "*Larceny*," Vol. III.

Sales by Auction. See "*Excise*," Vol. II.

Salmon. See "*Fish and Fisheries*," Vol. II.

Salt. See "*Excise*," Vol. II.

Salvage, Provisions as to. See post, "*Ships*."

Schoolmasters.

HOW far schoolmasters, being protestant dissenters, are exempted, as such, from the penalties inflicted by the law for teaching school without licence, is treated of under the title "*Dissenters*," Vol. I.

Where a schoolmaster, in correcting his scholar, happens to occasion his death, if on such correction he be so barbarous as to exceed all bounds of moderation, he is at least guilty of manslaughter; and if he make use of an instrument improper for correction, and apparently endangering the scholar's life, as an iron bar, a sword, or kick him to the ground, and then stamp on his belly, and kill him, he is guilty of murder. (1 *Haw. c.* 29, s. 5.) See further, titles "*Homicide*," Vol. III. p. 316; "*Assault*," Vol. I. p. 281.)

Scold. See "Nuisance," Vol. III.

Scotland.

Offender escaping into or out of, see *post*, "Warrant."

Scotch Marriages, see, *ante*, "Polygamy," p. 248.

As to the trial of offences in, see title "Indictment," Vol. III. p. 418.

Sea.

See "Admiralty," Vol. I. p. 48; "Fish," Vol. II.;
"Rivers," *ante*; "Wreck," *post*.

As to destroying Sea-Banks, see "Malicious Injuries to Property," Vol. III.

The following cases are for the most part to be found collected and arranged in Harrison's Digest under this title. And see Mr. Hall's Essay on the Rights of the Crown and Subject on the Sea Shore, &c.

Where the public have the right of passing and repassing between the high and low water marks, as well over the water as the land, it seems that the obstruction of such a right will be a nuisance. (*Att. Gen. v. Burrige*, 10 Price, 350.) The question of the nuisance is a matter of fact. (*Id.*)

The crown may grant by letters patent to a corporation, a town and borough, being *caput portus*, as Portsmouth, all the land between the high and low water marks; but this subject-matter of grant, as being *jus privatum* in the king, must be subject to the *jus publicum*, or public right of the king and people to the easement of passing and repassing, both over the water and the land. (*Id.*)

Where a part of the sea-coast or shore, being the property of the crown, and giving *jus privatum* to the king, is granted to a subject for uses, or to be enjoyed so as to be detrimental to the *jus publicum* therein, such grant is void as to such parts as are open to such objection, if acted upon so as to effect a nuisance by working injury to the public right, or it is a grant which does not divest the crown or invest the grantee. (*Att. Gen. v. Parmeter*, 10 Price, 378.)

Buildings, erections, and inclosures between the high and low water marks in the harbour of Portsmouth, interrupting the flux and reflux of the tide, were abated by decree of the court of Exchequer as a nuisance, where made under the sanction and authority of the corporation, having a grant from the crown by charter. (*Id.*)

The court of Exchequer may decree such an abatement. (*Id.*)

The king's attorney-general, on the part of the crown, may proceed in such cases for the purpose of protecting either the *jus privatum* of the king from the purpresture, or the *jus publicum* of the subject from nuisance, by information on the king's remembrancer's side of the Exchequer, or by English bill, praying a personal decree against the defendants in the suit. (*Id.*)

As to the public right to bathe in the sea, see "Bathing," Vol. I. 399.

Trespass for breaking and entering the plaintiff's close. Plea of justification, that the close was the sea-shore, and that all the subjects of the king had the right to enter and carry away the sea-weed left by the tide, and that the defendant being such subject entered. Replication, that every subject had not, nor had the defendant the right:—Held that the replication was bad, either because it amounted to a traverse of matter of law, or else, if not, was argumentative and double, as tendering two issues of fact. Held also that the plea was bad, for there is not at common law a general right

in the public of entering the sea-shore for the purpose of taking sea-weed. (*Howe v. Stowell*, 1 *Alcock & Napier*, 348.) (*Irish*.)

A custom for the inhabitants of a parish to take from a private close which adjoins the sea, sand drifted there, for manure, amounts to a custom to take profits *in alieno solo*, and is bad. 2. Such a right cannot be claimed by custom. (*Blewitt v. Tregonning*, 1 *Harr. & W.* 431.)

Rights of private individuals on sea shore.

Lands formed by alluvion, that is, by gradual and imperceptible deposit on the shore of the sea, belong to the owners of the adjoining demesne lands, and not to the king *jure coronæ*. (*R. v. Yarborough, Lord*, 2 *Bligh*, N. S. 147; 1 *Dow*, N. S. 178; 5 *Bing*, 163; 7 *D. & R.* 790; 3 *B. & C.* 91.)

Where the lord of a manor acquired a piece of land which had been formed by ooze and soil deposited by the sea upon the extremity of his demesne lands, and it appeared that the increase could not be observed when actually going on, although a visible increase took place every year, and in the course of fifty years a large piece of land had been thus formed; and upon an inquest finding that the land had been left by the sea, and an issue taken upon a traverse to that finding, the verdict was for the defendant:—Held that the crown was not entitled to judgment. (*Id.*)

A grant of lands to be recovered from the sea, must be reduced into possession within a reasonable time. (*Att. Gen. v. Richards*, 2 *Anst.* 614.)

By act of parliament, reciting that a certain tract of land daily overflowed by the sea, and to which the king in right of his crown claimed title, might be rendered productive if embanked, and that his majesty had consented to such embankment, a part of the said land, called Lipson Bay, was granted to a company for that purpose. On one side of the bay was the northern side of an estate called Lipson Ground, forming an irregular declivity, in parts perpendicular and in parts sloping down to the sea-shore, and overgrown with brushwood and old trees. The company in embanking the bay, made a drain on this side in the same direction with the cliff, cutting through it in parts, but leaving several recesses of small extent between the projecting points. These recesses used to be overspread with sea-weed and beach, and were covered by the high water of the ordinary spring tides, but not by the medium tides:—Held in the absence of proof as to acts of ownership, that the soil of these recesses must be presumed to have belonged to the owner of the adjoining estate and not to the crown, and did not therefore pass to the embankment company by the act of parliament. (*Lowe v. Govett*, 3 *B. & Adol.* 862.)

The lord of the manor, by lease and release, bargained and sold certain sea-grounds, oyster-layings, shores, and fisheries, extending from the south at low water mark to north at high water mark, and containing in the whole by estimation 800 acres of land covered with water or thereabouts, as the same are beacons, marked, and stubbed out; since the date of the deed the sea had imperceptibly encroached upon the land, and the high and low water marks had varied in the same proportion:—Held, that so much of the soil of the shore as from time to time lay between high and low water mark, had passed to the grantee under this deed. (*Scrutton v. Brown*, 6 *D. & R.* 536; 4 *B. & C.* 485, S. C.)

A grant of wreck from Hen. II. to the abbey of C. upon all their lands by the sea, confirmed by inspeximus by Hen. VIII., and a subsequent grant by him of the island of B. and its shores belonging to the late abbey of C., supported by evidence, that between forty and fifty years ago the proprietor of the island of B. raised an embankment across a small bay, and had ever since asserted an exclusive right to the soil without opposition:—Held, that although the usage of forty years' duration could not of itself establish such exclusive right or destroy the rights of the public, yet that it was evidence from which prior usage to the same effect might be presumed, and which, coupled with the general words contained in those grants, served to establish such right. (*Chad v. Tilsed*, 5 *Moore*, 185; 2 *B. & B.* 403, S. C.)

So where the lessees of a fishery had publicly landed their nets on the shore at A. for more than twenty years, and had frequently repaired the landing-place, although both the fishery and landing-place had originally

belonged to one person; but no evidence was offered in an action for the disturbance of the lessor's rights, to show that he, or those who owned the shore at A. under him, knew of the lessees of the fishery landing their nets there:—Held that it was properly left to the jury to presume a grant of the right of landing to the lessees by some former owner of the shore at A. (*Gray v. Bond*, 5 *Moore*, 527; 2 *B. & B.* 667, S. C.)

Persons occupying lands adjoining the sea, may erect such defences as are necessary for the preservation of their own lands, although such erections may render it necessary for their neighbours to do the like. (*R. v. Pagham, Commissioners*, 2 *M. & R.* 468; 8 *B. & C.* 355, S. C.) Sea walls and banks.

So commissioners of sewers for certain levels for the preservation of certain lands within the levels. (*Id.*)

And no obligation arises to erect works for the protection of such neighbours, nor to indemnify them against loss. (*Id.*)

If a sea-bank or wall which the owners of particular lands are bound to repair, be destroyed by tempest without any default of such owners, the commissioners of sewers may order a new one (even in a different form, if necessary,) to be erected at the expense of the whole level. (*R. v. Somerset, Commissioners of Sewers*, 8 *T. R.* 312.)

Where the owner of marsh lands was bound by the custom of a sewage-level to repair the sea-walls abutting on his own land, and by an extraordinary flood-tide the wall was damaged, the court refused to grant a mandamus to the commissioners of sewers to reimburse him the expense of the repairs, it appearing by affidavit that the wall had been previously presented for being in bad repair, and was out of repair at the time the accident happened, nor can the other landowners in the level be called upon to contribute to the repairs of such wall. (*R. v. Essex, Commissioners of Sewers*, 2 *D. & R.* 700; 1 *B. & C.* 477, S. C.)

The commissioners of sewers cannot maintain an action of trespass against the commissioners of a harbour for the breaking down a wall or dam erected by the former, as such commissioners, across a navigable river, as the authority to be exercised by them on behalf of the public does not vest in them such a property or possessory interest as will enable them to maintain such action. (*Newcastle, Duke, v. Clark*, 2 *Moore*, 666.)

An individual who had suffered loss in consequence of decay of sea-walls, which a corporation is directed to repair under the terms of a grant from the crown, conveying a borough and pier or quay tolls to the corporation for damages. (*Lyme, Mayor, &c., v. Henley*, 3 *B. & Adol.* 77; 5 *Bing.* 91, S. C.)

So as the obligation concerns the public, an indictment would lie for the general default. (*Id.*)

So when the obligation arises from prescription. (*Lynn, Mayor, v. Turner, Cowp.* 86; *S. P. Anon. Lofft*, 556.)

By an act for improving the town of Brighton, and preserving the adjacent coast from the incursions of the sea, the commissioners therein named were empowered to collect any rate or duty which they should think fit to order, not exceeding the sum of three shillings for every chaldron of coals landed on the beach, or in any other manner brought or delivered within the limits of the town. And where a declaration in debt for duties under this statute, alleged that the defendant on divers days and times, between &c., brought and delivered within the town divers large quantities, in the whole amounting to a large quantity, to wit, sixty-eight chaldrons and four bushels of coals, in quantities on each of the said days and times less than one chaldron:—Held that the duty attached, though the defendant did not bring into the town at any one time a quantity amounting to a chaldron:—Held also, that the plaintiff might take judgment for the sixty-eight chaldrons, and enter a remittitur for the residue. (*Mills v. Funnel*, 4 *D. & R.* 561; 2 *B. & C.* 899, S. C.)

Seamen.

As to *Impressing* Seamen, see "*Impressment*," Vol. III. p. 367.

As to *Servants* in general, and disputes between bargemen, &c. and owners of ships, &c. on the Thames, see "*Servant*," *post*.

As to Offences and Regulations relative to *Ships* in general, see "*Ships*," *post*.

As to Offences relative to *Wrecks*, see "*Wrecks*," *post*.

As to Enlisting in foreign Service, see "*Foreign Service*," Vol. II.

As to the *Trials* of Offences abroad, see "*Admiralty*," Vol. I. p. 49.

As to Seamen *Begging*, see 43 Geo. III. c. 61; "*Military Law*," Vol. III.

Herein of—

I. *Royal Navy and Marines*, p. 388.

II. *Seamen in the Merchant Service*, p. 437.

III. *Assaulting Seamen to prevent them working*, p. 470.

IV. *Assaulting Commanders to prevent them fighting*, p. 470.

V. *Schedules*, p. 471.

VI. *Forms*, p. 477.

I. Royal Navy and Marines.

What offences the court martial may punish.

By the 22 Geo. II. c. 33, s. 4, no court martial may punish or try any offence committed by any seaman in his majesty's service, which shall not be committed on the main sea, or in great rivers beneath the bridges, or in a haven or creek within the jurisdiction of the Admiralty; except in the case of spies, or of mutiny and desertion, or disobedience, or of offences committed on land in foreign countries.

A purser in the navy is liable, by the 22 Geo. II. c. 33, to be tried by a court martial for fraudulently and unlawfully charging blankets against seamen to whom none had been issued, and of making, in order to such charge, certain false entries in one of the ship's books, that being within the 36th article of war, an offence not capital, committed by a person in the fleet, not before mentioned in the act, and for which no punishment is thereby directed to be inflicted. (*Mann v. Owen*, 9 B. & C. 595.)

Where they may exercise trades.

By the 22 Geo. II. c. 44, and 3 Geo. III. c. 8, seamen who have been employed in the king's service since the accession of King George the Second, and not deserted, may set up and exercise such trade as they are apt for, in any town or place of Great Britain or Ireland, without molestation (except in Oxford or Cambridge); and if any person be sued thereupon, and the plaintiff be cast, such person shall have double costs.

Convicted of swearing.

By the 19 Geo. II. c. 21, s. 5, a seaman, instead of being committed to the house of correction for default of paying the penalty for swearing, shall be put in the stocks for one hour for every single offence, and for any number of offences of which he shall be convicted at one and the same time, two hours. See, *ante*, "*Blasphemy*," Vol. I., and *post*, "*Swearing*."

Drunkenness.

As to Drunkenness, see "*Alchouses*," Vol. I. p. 106.

11 Geo. 4 & 1 Will. 4, c. 20.

Repeal of acts.

By the 11 Geo. IV. & 1 Wil. IV. c. 20, intituled "An Act to amend and consolidate the Laws relating to the Pay of the Royal Navy," [29 May, 1830,] after reciting, "whereas it is expedient to revise, amend, and reduce into one act the laws relating to the payment of wages and other monies payable in respect of services done on board his majesty's ships and vessels of war," it is enacted, "that from and after the passing of this act, so much of the 1 Geo. I. c. 25, as relates to the punishment of persons who shall counterfeit the hands of the treasurer, comptroller, clerk of the acts, surveyor or commissioners of the navy, or of the signing or vouching officers of his

majesty's navy, ships, or yards, to any bill, ticket, or other papers;" and the 14 Geo. II. c. 38, the 31 Geo. II. c. 10, the 32 Geo. III. c. 33, the 32 Geo. III. c. 67, the 35 Geo. III. c. 28, the 35 Geo. III. c. 94, the 35 Geo. III. c. 95, the 37 Geo. III. c. 53, the 46 Geo. III. c. 127, the 49 Geo. III. c. 45, the 49 Geo. III. c. 108, the 53 Geo. III. c. 85, the 55 Geo. III. c. 60, the 56 Geo. III. c. 101, the 57 Geo. III. c. 20, the 59 Geo. III. c. 119, the 1 & 2 Geo. IV. c. 49, the 6 Geo. IV. c. 18, and the 10 Geo. IV. c. 14, "shall be and the same are hereby repealed: provided always nevertheless, that all acts, matters, and things done previously to the commencement of the operation of this act, in pursuance of any of the said acts hereby repealed, and all regulations and provisions relating thereto, shall continue to be as good, valid, binding, and effectual as if the said acts and every of them still continued in full force; provided also, that all offences committed before the commencement of this act against the provisions of any of the said acts shall be cognizable and punishable under the said acts as if the same had not been repealed; and provided likewise, that the repeal of the said acts by this present act shall not extend to revive the provisions of any former acts which were altered or repealed by any of the said recited acts so hereby repealed."

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11 G. 4 & 1 W. 4, c. 20.

Proviso for matters done, and offences committed previously hereto.

Act not to revive any former acts.

Sect. 2. "Whenever any seaman or able-body* landman shall voluntarily enter his name with any officer of the royal navy authorized to receive volunteers, in order to serve on board any ship of his majesty, such officer shall make out and deliver to him gratuitously a certificate of the date of such entry; and if such volunteer shall forthwith proceed towards the ship for which he shall have so entered, or on board the nearest receiving ship to the place of his entry, and make his personal appearance on board the same within the space of fourteen days from the date of such certificate, including the day of the date thereof, provided the place of his entry be not above one hundred miles distant from such ship, or within the space of thirty days if the place of entry be above two hundred miles distant, every such volunteer shall be entitled to wages from the time of such entry, including the day of the date thereof, and shall also be allowed conduct money after the usual rate, and shall be paid an advance of two months' wages, at the first fitting out of the ship in which he shall be appointed to serve as part of the complement or as a supernumerary for wages, before such ship shall proceed to sea; and every seaman and able-bodied landman who shall be entered on the books of any ship of his majesty as a supernumerary, and who at the time of such entry shall not belong to or be borne for wages on the books of any other ship, shall be borne for and entitled to wages on the books of the first ship in which he shall serve as part of the complement thereof or as a supernumerary for wages: provided always, that it shall be lawful for the lord high admiral or the commissioners for executing the office of lord high admiral of the United Kingdom for the time being, in cases where they shall see necessary, to authorize the payment from time to time of such advance to supernumeraries and others who may have entered themselves for his majesty's naval service, after the ship on board which they shall be serving shall have proceeded to sea; and in case, through urgent necessity of the public service, the ship shall have proceeded to sea before payment of the advance can have been conveniently made, then the same shall be paid as soon as may be on the ship's arrival in any port where there shall be an establishment of clerks of the treasurer of the navy." [See this amended by 4 & 5 Wil. IV. c. 25, s. 3, *post*, 432, and 5 & 6 Wil. IV. c. 24, s. 4, *post*, 435.]

Volunteers to receive certificates to entitle them to wages, conduct money, and two months' advance.

* *Sic.*

Admiralty may order advance in certain cases.

Sect. 3. "From time to time, under such authority as his majesty in council hath been or shall be pleased to direct, a certain portion of the pay due to such warrant and petty officers (not entitled to draw bills for their pay as hereinafter provided), and also to such seamen and others as may be desirous of receiving it, shall be issued to them at the expiration of every month, or as soon after as the convenience of the service will admit, on the ship's arrival, at home or abroad, where money can be procured, in such proportions per month as hath been or shall be for that purpose directed by

Monthly pay.

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the lord high admiral or the commissioners for executing the office of lord high admiral for the time being; and to this end the captain shall make out a complete list of the names of the men, with their respective numbers on the ship's books, who shall be so desirous of receiving a portion of their pay, and who shall be actually on board at the time of making out such list, which shall be signed by the captain and proper signing officers of the ship; and that the purser shall then draw, for the amount of the said portion of pay so to be issued, a bill of exchange at three days' sight upon the commissioners of the navy, in the accustomed form, or such other form as shall be for that purpose supplied to the ship, which bill shall be certified by the captain, and shall be, when presented at the navy office, assigned for payment to be made by the treasurer of the navy, and the amount thereof shall be charged against the purser; and so soon as cash shall have been obtained by the purser by the negotiation of such bill, the allowed portion of the pay shall be paid by the purser to the parties, in the presence of the captain and a commission or warrant officer entitled to draw bills, each of whom, with the purser, shall certify the payment on the list; and the captain shall, by the first safe and convenient opportunity after such payment, transmit the said list to the commissioners of the navy; and the captain and purser shall likewise certify at the end of each muster book the full amount, in words at length, of the monies which shall have been so paid during the exact period of time of such book, and that the several sums so paid have been therein duly charged against the respective persons so paid; and in case there shall be any balance of money left in the purser's hands, he shall give credit for the amount in the next bill to be drawn by him for monthly payments, so that he shall not be at liberty to draw for more than what, including such balance and any premium to be obtained on the bill, shall be sufficient to answer the next monthly payment."

Absent men.

Sect. 4. "In case any such person shall be absent with sufficient cause at the time of such payment, his name, on his return to the ship, shall be subjoined to the next lists to be made out, in which the cause and dates of his absence and return shall be specified; and in case any individual shall be discharged to another ship, being then entitled to any payment not made, the captain of the ship he leaves shall give him a certificate specifying his rating and the time for which he shall be entitled to such portion of pay, which shall be paid to him at the next payment to be made to the crew of the ship to which he shall be discharged."

Payments when
no purser is on
board.

Sect. 5. "In case of any such payment being made on board a ship which shall not have a purser on board, the commanding officer shall act as and be deemed to be the purser for all the purposes of such payments; and in such case the payment shall be made by him in the presence of any other commissioned officer of the ship and one warrant officer, or if there shall be no other commissioned officer, then in the presence of any two warrant officers, who shall certify and attest the lists in the manner before required." [See further the 2 Wil. IV. c. 40, s. 18, *post*, 426.]

Premium on bills.

Sect. 6. "At the foot of each bill the course of exchange shall be truly certified by two resident merchants at the place where the bill shall be drawn; and the purser or commanding officer, as the case may be, shall debit himself and be charged with any premium which such bills may bear, as part of the balance remaining on hand at the conclusion of each payment; and in case the bill shall be at a discount, he shall add the discount to the amount of the bill to be drawn, which discount shall be allowed in his accounts, if the amount be truly certified at the foot of such bill: provided nevertheless, that if the said bills shall be drawn at any port within the foreign or colonial territories of Great Britain where there shall be a resident naval officer, such naval officer is hereby enjoined and directed to give cash for the amount of such bills at par, upon which no premium or discount shall be charged or taken; and in case he shall not have sufficient cash in hand for the purpose, he shall certify the same by indorsement on such bill; or if the ship shall be at a port where there shall be an establishment of clerks of the treasurer of the navy, the bill to be drawn,

Naval officer or
treasurer's clerks
to cash bills.

certified and attested as aforesaid, shall be cashed by such clerks out of the public monies in their hands, and the amount thereof charged against the drawer in manner aforesaid."

Sect. 7. "Whenever any petty officer, seaman, or marine shall be turned over from one ship to another, in any port of the United Kingdom or on the coast thereof, he shall on the arrival of the ship to which he shall be removed at any port where there shall be an establishment of clerks of the treasurer of the navy, and before such ship shall proceed to sea, be paid all the wages due to him upon or by pay lists (being extracts from the muster books in the form heretofore accustomed, or in such other form as shall be found requisite, and as shall be directed by due authority), made out and signed by the captain and proper signing officers of the ship from which he shall be turned over, save and except in urgent cases, when the lord high admiral or commissioners for executing the office of lord high admiral for the time being shall otherwise direct, and in such cases he shall be paid whenever the ship shall return to any port where there shall be a commissioner or other authorized officer of the navy to controul such payment: provided always, that no petty officer or seaman who shall be turned over from one ship to another shall be rated in a lower degree than that in which he was rated in the books of his former ship."

Sect. 8. "In case the ship to which any person shall be so turned over shall be then abroad, the captain shall, previous to his removal, cause to be made out in the usual form, or in such other form as shall be authorized by the lord high admiral or the commissioners for executing the office of lord high admiral, a ticket, to be called a foreign remove ticket, containing the name, age, stature, and complexion of the party, the date of his entry and discharge, his number on the ship's books, the particulars of all slops and other charges against his wages, (the total amount of which shall be written in words at length,) and the name of the ship to which he shall be so turned over, which ticket shall be signed by the captain and the other proper signing officers of the ship, and then be delivered to the party, to enable him to receive payment of his wages conformably with the established regulations of the navy."

Sect. 9. "When any petty officer, seaman, or marine shall be sent sick to any hospital or sick quarters at home or abroad, a ticket, to be called a sick ticket, shall in like manner be made out by the captain and sent with him, which, in addition to the particulars to be contained in the foreign remove ticket, shall describe the different effects which shall be sent with him, and his disorder or infirmity, and shall be addressed to the surgeon or agent at such hospital or sick quarters; and upon his being thence discharged back to his own ship, he shall leave the ticket with the said surgeon or agent; but if discharged to any other ship not to rejoin his own ship, the said ticket shall be sent with him, and be paid conformably with the established regulations of the navy; and in case he shall be discharged from the said hospital or sick quarters as unserviceable, a certificate of his discharge shall be delivered to him with the said sick ticket, to enable him to receive his wages, and in the meantime he shall be maintained and subsisted either in such hospital or on board some ship of his majesty, or otherwise, as shall be found convenient: provided always, that all petty officers, seamen, and marines who shall be wounded in action with the enemy shall receive the full amount of their wages and allowances until their wounds shall be healed, or, if declared incurable, until they shall receive a pension or be admitted into the royal hospital at Greenwich; but no other petty officers, seamen, or marines, who shall be discharged from hospitals or sick quarters at home, either to a ship or from the service, shall be allowed wages for more than thirty days of the time they shall remain in such hospital or sick quarters."

Sect. 10. "When a petty officer, seaman, or marine shall, by wounds or infirmity, be disabled or rendered unserviceable, the captain shall represent the same to the commander-in-chief or senior officer, who shall cause the same to be inquired into by a survey, according to the practice of the navy; and if, upon such survey, such petty officer, seaman, or marine shall be found unfit for further service, he shall be discharged, and the captain shall there-

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11 G. 4 & 1 W. 4, c. 20.

Men turned over to be paid by pay lists.

No person to be rated lower when turned over.

Foreign remove ticket.

Sick ticket to be sent with men sent to sick quarters.

Wounded men to receive pay till cured or pensioned.

Discharge of unserviceable men.

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c. 20.

upon make out and sign in the usual and authorized form a ticket, to be called an unserviceable ticket, for the wages due to such unserviceable man; or if the ship shall not be in any port of Great Britain, nor on the coast thereof, and shall not belong to any squadron of ships, or shall be separated from the commander-in-chief of any squadron to which such ship shall belong, then the captain, being, upon the usual survey, satisfied of such disability, shall discharge such person, and shall make out such ticket as aforesaid, which he shall sign and cause to be signed by the proper signing officers, and then deliver to him, together with a certificate of his discharge, containing a description of his person, to enable him to receive his wages: provided always, that every such person so discharged unserviceable (if discharged abroad), and being sent on board any other of his majesty's ships for a passage home, shall be borne on the books of such ship for wages and victuals to the date of her arrival at any port of Great Britain where there is a resident commissioner of the navy; and until the payment of his wages he shall be subsisted in some one of his majesty's ships either in commission or in ordinary, or at the nearest naval hospital, as shall be found most convenient."

Passage home for
unserviceable
men.

Sect. 11. "In case there shall be no opportunity of a passage by a king's ship, every man so discharged abroad, either from a ship or from any hospital or sick quarters, shall be sent home by the first convenience of a merchant vessel, the master of which is hereby required to afford a passage to and subsist all such men, not exceeding four men for every one hundred tons burden of his ship, for which such allowance per day shall be made as shall be authorized by the lord high admiral or commissioners for executing the office of lord high admiral for the time being, except in cases when the man so discharged shall perform the duty of one of the crew of the vessel, and for which he may be entitled to receive wages from the owner; and if he shall not have received or be entitled to any wages or consideration for services on board thereof, the master of such vessel is hereby required to make out and deliver to him a certificate to that effect, specifying the day of his entry on board the vessel and of his arrival in England, to entitle him to receive wages to that period as an invalid; and every master who shall refuse to afford a passage to and subsist, or to furnish such certificate to, any such discharged man, shall forfeit and pay the sum of fifty pounds in respect of each and every such man whom he shall refuse to afford a passage to, subsist, or furnish a certificate to as aforesaid; and every collector of the customs or excise in any part of the United Kingdom, where there shall be no commissioner of the navy, upon the application of any such discharged person, and on the production of his ticket and certificate of discharge, and also (in case he shall have received no wages or other consideration for his services in any vessel on board which he shall have arrived) of a certificate to that effect from the master of the vessel, shall and he is hereby required to receive such ticket and certificate, and shall require from the master of the vessel in which the party shall have come home, or from some respectable inhabitant of the place, a certificate of the identity of the party, and being satisfied in every respect shall give such party a receipt for the ticket and certificate, and transmit the same forthwith, with the party's address, to the commissioners of the navy, in order that when due examination shall have been made therein, a remittance bill, as herein-after mentioned, may be forwarded to such discharged person, to enable him to receive the wages due to him."

Dead ticket.

Sect. 12. "When any petty officer, seaman, or marine shall die in the service of his majesty, the captain of the ship to which he shall belong shall thereupon make out a ticket in the usual and authorized form, to be called a dead ticket, for the wages due to the deceased for his service on board the same, which ticket after having been signed by the captain and the proper signing officers of the ship, shall be transmitted by the captain to the commissioners of the navy, in order that payment thereof may be made to the legal representative of the deceased; and if the deceased shall have left on board the ship any clothes or other effects, a list shall be made

Clothes of
deceased men.

thereof by the purser, and the captain shall cause the same to be publicly sold at the mast, under the inspection of the purser, as soon as may be thereafter, and the sums for which the same shall be sold shall be charged in the ship's books against the wages of the respective purchasers, but no person shall be allowed to purchase beyond the amount of the net wages then due to him; and the purser shall make out an account specifying the articles sold, the names of the purchasers, and the prices at which they were purchased, which account shall be signed by the captain and purser, and be transmitted to the commissioners of the navy, annexed to the dead ticket herein-before mentioned; and in case the deceased shall not have left any clothes or effects, the captain shall certify on the dead ticket to that effect; and in consideration of the allowance made by the established regulations of the navy to the purser for his trouble in the disposition of the effects, he shall be held responsible, as well to the public as to the representatives of the decease, and be answerable out of his pay and allowances for any omission, error, or loss that shall arise through his neglect: provided always, that nothing herein contained shall extend to exempt the captain from any liability or responsibility to which he may by this act, or by the regulations of his majesty's naval service, be subject for errors in tickets, certificates, or other documents issued by him or under his authority.

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11 G. 4 & 1 W. 4,
c. 20.

Sect. 13. "When any petty officer, seaman, or marine shall be promoted abroad to any rank above the rank of petty or non-commissioned officer, the captain shall cause to be made out and delivered to him a ticket in the usual and authorized form, to be called a promotion ticket, for the wages due to him, certifying that he has been actually promoted to the station therein mentioned, which ticket shall consist of the same particulars as are prescribed in regard to foreign remove tickets, and shall be transferable by indorsement of the party in whose favour it is made out, and shall be payable to the indorsee thereof.

Promotion ticket.

Sect. 14. "No ticket herein directed to be made out, save and except the promotion ticket, shall be saleable or transferrable on any account, but shall, after having been examined at the navy office with the muster book of the ship or other returns, if received, be paid to the party only to whom the same is made out; provided the commissioners of the navy shall be satisfied that the ticket is genuine, and that the party presenting the same is the identical person to whom it is made out."

No ticket, except the promotion ticket, to be transferrable.

Sect. 15. "All tickets, certificates, pay lists, and other vouchers for wages, to be made out as aforesaid, shall be in the forms heretofore established and now in use in his majesty's naval service, or in such other forms as the lord high admiral or the commissioners for executing the office of lord high admiral for the time being, or, under their authority, the commissioners of the navy, shall from time to time authorize; and if any officer or other person shall make out, sign, or issue any ticket, certificate, pay list, or other voucher or document for wages, other than in the form and under the regulations herein prescribed, every person so offending shall for every such offence forfeit the sum of fifty pounds, and if belonging to his majesty's naval service shall moreover be liable to such punishment and forfeiture of wages as a court martial shall adjudge."

Forms of tickets, &c.

Penalty for issuing tickets contrary to the act.

Sect. 16. "In case any ticket herein directed to be made out (except a promotion ticket) shall happen to be lost or destroyed, or if the party to whom the same shall be payable shall not appear in person and present the same as aforesaid, or if the wages due thereon shall not be paid before the general payment of the ship's company, then and in any such case all such wages shall become payable to the party, his executors or administrators, in the same manner as if such ticket had not been made out; and such ticket, if the same shall be forthcoming, shall be cancelled."

In case of ticket being lost or not paid.

Sect. 17. "In case the muster or pay books of any ship shall not have been regularly transmitted to or received by the commissioners of the navy, yet payment of the tickets, certificates, or pay lists before mentioned shall not on that account be delayed; and in case any error to the detriment of the public treasure shall be made on any ticket, certificate, or list directed by this act to be made out, the amount of the loss (if any) arising

Payment not to be delayed for want of books.

Officer to be responsible for errors.

1. *Royal Navy and Marines.*11 G. 4 & 1 W. 4,
c. 20.Regulations as to
payment of ships.

thereby shall be made good out of any wages or pay due or to grow due to the officer by whom or under whose directions the same shall have been made out; and the purser, in case he shall have signed the same, shall be disallowed the amount of slops and other charges for which he is responsible.

Sect. 18. "Out of all supplies to be granted by parliament for naval services, the necessary sums of money shall be first appropriated, issued, and applied for the regular and punctual payment of the wages and pay of the officers and seamen of the royal navy, in manner following; that is to say, that when any of his majesty's ships shall have been in sea pay twelve calendar months or more, and shall be or arrive in any port of Great Britain, or on the coast thereof, the captain of such ship shall cause to be made out the requisite perfect pay book or books, with an alphabetical index to each, and an open list for the whole of the officers and crew thereof, for all the time the ship shall have been in sea pay and unpaid, except for the period of the last six calendar months, up to the commencement of which last-mentioned period the wages due are hereby intended to be declared, and shall forthwith transmit to the navy board such pay books, indexes, and open lists, with a slop book; and so soon as such ship shall be or arrive in any port of Great Britain where any commissioner of the navy shall be or reside, and so soon as money shall have been issued for the payment of the ship and the said books shall have been prepared and transmitted to the navy office, and duly examined (for which sufficient time shall be allowed), the commissioners of the navy shall cause payment to be made of all the wages due on the said pay books, abating therefrom whatever charges shall stand in the said books against any of the officers and crew, either in respect of advance, slops, tobacco, or other things, or on account of desertion, absence from the ship, or of any defalcation whatsoever, leaving always six months' wages in arrear and unpaid over and above the wages accruing to the time during which the said books shall have been preparing and examining; and whenever any ship shall return home in order to be laid up, all the wages due for such ship shall be entirely paid off as soon afterwards as may be."

Payment at ports
where there is no
commissioner.

Sect. 19. "It shall be lawful for the lord high admiral or the commissioners for executing the office of lord high admiral for the time being, if they should deem it expedient so to do, to cause any of his majesty's ships to be paid at a port where there shall not be any commissioner of the navy resident, and in every such case the principal officers and commissioners of the navy shall, upon receiving directions in writing for that purpose, take the necessary steps for causing payment to be made accordingly by the clerks to the treasurer of the navy, in the usual manner, in the presence of a commissioner of the navy to be sent thither, or in the presence of an officer of the navy not under the rank of commander, to be appointed by the said lord high admiral or the commissioners for executing the office of lord high admiral to superintend and controul such payment; and that all payments made in the presence and under the superintendence of such officer of the navy shall be held as good and valid."

As to seamen
absent when a
ship is paid.

Sect. 20. "In cases where petty officers, seamen, or marines may happen to be absent, either upon duty or sick, or with leave of the commanding officer, at the time of the payment of the ship, the commissioners of the navy, upon application from any such person so absent and then being in his majesty's service, or from his captain, in case the ship shall be in any port where a commissioner of the navy shall be or reside, shall cause the pay books of such ship, or extracts therefrom for such persons, to be forwarded without delay to the commissioner of the navy at the port where such ship shall be, in order that payment may be forthwith made to him thereon."

In urgent cases
payment may be
made before pay
books are exa-
mined.

Sect. 21. "And whereas it may be expedient to pay the crews of ships on their arrival in port, or previous to sailing from thence, under circumstances which will not admit of the delay which must necessarily occur in previously sending the pay books to the navy office to be examined; be it therefore further enacted, that it shall be lawful for the commissioners of his majesty's navy, in cases of urgency, as they shall see necessary, to cause

payment to be made upon such books without the previous examination thereof as aforesaid; but it is nevertheless hereby required and directed that the said books shall, immediately after payment shall have been so made thereon, be transmitted to the navy office, for the purpose of undergoing the necessary examination and adjustment, and in order that any charges omitted to be made, or any over-payments that may have occurred thereon, may be set off or abated or recovered at the first opportunity from the arrears of wages or growing wages of the men in respect of whom such omissions or over-payments may have taken place."

Sect. 22. "If any officer, seaman, or marine shall desert from his majesty's service, he shall thereby lose and forfeit all wages, prize money, and other allowances, benefits, and advantages to which he would otherwise have been entitled, as well in respect of his services in the ship from which he shall have deserted, as of those in all former ships in which he may have served; and no person against whose name the letter (R) shall be placed in the muster book of the ship as denoting a deserter shall, while such (R) so remains, be entitled to receive his wages, prize money, or other allowances: provided always, that it shall be lawful for the lord high admiral or the commissioners for executing the office of lord high admiral for the time being, in such cases as they shall deem fit, to order the (R) placed against the deserter's name in the books of the ship to be removed, and to authorize the payment of the wages, prize money, or other allowances due to him."

Sect. 23. "It shall be lawful for any commission or warrant officer, on being appointed to any ship of his majesty in commission, he being entitled to half pay, and there being no imprest standing against him, upon application to the commissioners of the navy, and on the production of the affidavit usually required from half pay officers, and a certificate of the date of his commencing sea pay, to receive the arrears of half pay which may be due to him up to that date; and every such officer who shall have been on half pay for three months next before his appointment to any ship, and shall have no imprest outstanding against him, shall, on joining his ship, upon like application to the said commissioners, be entitled to receive the amount of three months' personal sea pay in advance: provided always, that in case any such officer shall be again put on half pay, from any cause whatever, before the expiration of three lunar months from the time of such appointment to a ship, the amount of the three months' wages so paid to him in advance, or for such part of the time as he shall not serve, shall be placed as an imprest against his future half pay."

Sect. 24. "It shall be lawful for every flag officer, commission officer, master, (such commission officer or master not being in the command of a ship, or not having accounts to pass,) secretary to a flag officer or commodore, physician, chaplain, second master, and assistant surgeon (not acting as surgeon,) who shall be actually in the naval service of his majesty, and entitled to full pay in the fleet, at the expiration of every three, six, or twelve lunar months, or of any longer period, to draw a bill of exchange, or a set of bills of the same tenor and date, upon the commissioners of his majesty's navy for the net balance of the personal wages due to him, which bill or set of bills shall be made payable to himself or to his order at ten days' sight, and shall state the rate or description and name of the ship to which he shall belong, and his station or rank on board the same, and also the full amount of the personal wages then due to him, and the period for which the same accrued, together with the amount of such charges and deductions as shall appear on the ship's books against him, and the net residue of the personal wages due to him, for which residue, and no more, the bill shall be drawn." [See this extended to inferior classes in the navy by 4 & 5 Wil. IV. c. 25, s. 1, *post*, 431.]

Sect. 25. "It shall be lawful for every captain, lieutenant, or master commanding a ship, surgeon, purser, and assistant surgeon acting as surgeon, to draw bills of exchange, in like manner and under similar regulations, for three-fourths, and no more, of their net personal pay; and that it shall also be lawful

1. *Royal Navy and Marines.*

11 G. 4 & 1 W. 4,
c. 20.

Deserters to
forfeit their
wages.

Admiralty may
authorize the pay-
ment of wages in
certain cases.

Officers on ap-
pointment to re-
ceive arrears of
half pay;

and three months'
full pay in ad-
vance.

Proviso as to offi-
cers again put on
half pay.

Officers, not hav-
ing accounts to
pass, allowed to
draw bills for full
pay.

Certain officers to
draw for 3-4ths
only.

As to petty offi-
cers.

1. *Royal Navy and Marines.*

11 G. 4 & 1 W. 4,
c. 20.

Officers sent to sick quarters may draw bills for pay due.

Extracts of particulars from ship's books to accompany officers to sick quarters.

Officers discharged or removed to take extracts with them.

The manner in which quarterly bills shall be certified and approved.

Approving officers made responsible.

Penalty for drawing for more pay than due.

for every mate, midshipman, and master's assistant who shall have passed his examination for a lieutenant, master, or second master respectively, and for every schoolmaster, secretary's clerk, and captain's clerk, to draw bills, in like manner and under similar regulations, at the end of every six or twelve, but not for a shorter period than six lunar months, for the net personal pay due to him: provided always, that no person allowed by this act to draw bills periodically, who shall have received three months' advance, shall be permitted to draw any such bill for the first three months after he shall have joined his ship." [See this amended by the 4 & 5 Wil. IV. c. 25, s. 2, *post*, 432.]

Sect. 26. "It shall be lawful for every commission officer, master, secretary, physician, chaplain, surgeon, purser, second master, and assistant surgeon, who shall be sent to a hospital or sick quarters, to draw a bill of exchange upon the commissioners of the navy for the pay or proportion of pay, as by this act allowed, that may be due to him on the day of his being discharged to sick quarters: provided always, that every such bill, in addition to the certificate and approval hereafter mentioned, shall be accompanied by a certificate indorsed thereon, under the hand of the medical officer superintending the hospital or sick quarters to which such officer shall have been so discharged, of the day on which he was received into the same."

Sect. 27. "When any such officer shall be sent to sick quarters, there shall be made out, and he shall take with him, a perfect extract from the books of the ship, containing all the particulars therein entered relating to such officer; and upon his discharge from sick quarters the medical officer superintending such sick quarters shall certify on the back of such extract the period he shall have been therein, and the day of his discharge therefrom, to enable him to receive the balance of his pay in case he shall not be discharged back to his ship."

Sect. 28. "Whenever any such officer shall be discharged, superseded, or removed from one ship to another, having less than three months' pay due to him, he shall take with him a similar extract, to enable him to draw for his pay at the expiration of three months from the date of his last bill, in which bill so to be drawn the periods of his service in each ship for which pay shall be due shall be distinguished."

Sect. 29. "Every bill for personal pay to be drawn as aforesaid (save and except those drawn by flag officers, commodores, and captains,) shall be certified and approved as follows; every bill to be drawn by a commission officer (not commanding a ship), master, chaplain, surgeon, second master, assistant surgeon, passed mate, passed midshipman, and passed master's assistant, schoolmaster, and captain's clerk, shall be certified by the purser, and approved by the captain; every bill to be drawn by a secretary to a flag officer or commodore shall be certified by the purser, and approved by the flag officer or commodore; every bill to be drawn by a physician of a fleet shall be certified by the purser, and approved by the commander-in-chief of the fleet; every bill to be drawn by a purser shall be certified by the master, and approved by the captain or commanding officer; every bill to be drawn by a commanding officer, acting as purser, shall be also certified by the master or acting master; and every bill to be drawn by a secretary's clerk shall be certified by the purser, and approved by the secretary; and the officer by whom any bill shall be approved shall be held responsible that the party drawing the pay has been borne for pay during the period for which the bill is drawn, and is entitled to draw such bill, and that the purser hath previously certified his right to draw for the sum mentioned in the bill; and the purser or officer certifying shall also be held responsible for the correctness of his certificate to the bill."

Sect. 30. "If any officer authorized to draw a bill as aforesaid, shall knowingly and fraudulently draw any such bill for pay when there shall not be pay to the amount so drawn for due and owing to him, every person so offending shall forfeit all pay and other allowances to which he shall be then entitled, and moreover, upon being convicted thereof by court-martial, shall be cashiered, and rendered thereafter incapable of holding any office, civil

or military, in his majesty's service : provided always, that no officer whose duty it shall be, according to the rules of the service, to transmit any logs, journals, returns, or other documents, either to the Admiralty office or to the Navy office, shall be entitled to receive any pay that may be due at the time of his discharge, or any half-pay afterwards to accrue due, until he shall have duly transmitted such logs, journals, returns, or other documents, or unless he shall have obtained a dispensing order for that purpose from the lord high admiral or the commissioners for executing the office of lord high admiral aforesaid for the time being."

Sect. 31. " Whenever any officer who is required to pass accounts to entitle him to the balance of his pay shall have cleared his accounts for the period during which he shall have been on full pay, to the satisfaction of the commissioners of the navy and victualling respectively, and in the manner in which accounts are required to be passed, he shall be entitled to a bill usually called a general certificate, specifying the net balance due to him, which shall be payable by the treasurer of the navy, and be negotiable like other bills."

Sect. 32. " It shall be lawful to and for every boatswain, gunner, carpenter, petty officer, (not entitled to draw bills for pay,) seaman, landman, (boys excepted,) and non-commissioned officer and private of marines, being part of the complement of a ship, or borne on the books as a supernumerary for wages and victuals, to make an allotment of a certain portion, not exceeding one moiety, of the monthly wages to which he may be entitled while such allotment shall continue in force, and which shall be calculated so as to avoid fractions of small sums in the payment thereof, and that such allotments shall and may be made in favour or for the maintenance of the following relatives only, (that is to say,) wife, father, mother, child or children being under the age of fourteen years, or labouring under any bodily infirmity ; which allotments shall be made according to the forms and in the manner heretofore used in the royal navy, or in such other form and manner as shall by the commissioners of the navy be deemed best adapted to answer the intentions of this act ; and that all the monies which shall hereafter be allotted shall, at the expiration of every calendar month, (the first payment to be reckoned from the first day of the month subsequent to the date of the declaration of allotment, and not to include the period between that date and the first of the ensuing month,) be paid to the parties entitled to receive the same ; but that no payment shall be made at any one time for a shorter period than a calendar month, and that whenever any increase or decrease shall take place in the rate of allotment by promotion, disrating, or otherwise, payment of the same shall commence from the ending of the last preceding payment." [See further the 4 & 5 Wil. IV. c. 25, s. 4, 5, 6, *post*, 432, 433.]

Sect. 33. " Whenever any person entitled to make an allotment shall declare his intention so to do, the captain shall cause such person to subscribe his name or mark to a declaration or to a list of declarations for that purpose, which the captain shall sign and cause to be signed by the signing officers of the ship, and then transmit to the commissioners of the navy, in order that they may take the necessary measures for causing allotment bills to be made out thereon, and payment to be made of the portion of wages so allotted ; and the captain shall also cause to be noted in the muster book, against the names of such persons, the date of the making of such allotments ; and in case any person having made an allotment shall desert, die, or be discharged sick, or otherwise, the captain shall notify the same to the commissioners of the navy without loss of time for their guidance ; and to the like end, every agent of a hospital or sick quarters to which any such person shall be sent shall make a periodical return of all such to the said commissioners in a form to be furnished to him for that purpose ; and if any such person shall die at or desert from such hospital or sick quarters, the date of his death or desertion shall also be returned ; and in case any captain or agent shall make default therein, he shall be liable to make good out of his pay any loss that shall accrue to the public thereby."

1. Royal Navy and Marines.

11 G. 4 & 1 W. 4, c. 20.

No officer whose duty it is to transmit logs, &c. shall be entitled to be paid until the logs, &c. are produced.

Officers having passed their accounts to be entitled to general certificates negotiable.

Allotments.

Captain to cause declarations of allotment to be made out.

1. *Royal Navy and Marines.*11 G. 4 & 1 W. 4,
c. 20.Allotment bills to
be made out.

Payment.

Sect. 34. "The allotment bill, to be made out in duplicate at the navy office, shall be made payable by the treasurer of the navy, and by the respective collectors of the customs and excise of the United Kingdom, and that one of such duplicates shall be transmitted to the party entitled to receive thereon, and the other duplicate to the treasurer of the navy or his clerk, or to the officer of the revenue who is to pay the same, as the case may be; and that upon the production by the said party of such duplicate, together with a certificate under the hands of the minister and churchwardens or elders of the parish or place where such party shall reside, that he or she is the party mentioned in the allotment bill, and on due proof, in the case of a wife, of her marriage with the person making the allotment, and the treasurer's clerk or officer of the revenue being satisfied of his or her identity, the monies thereby allotted shall be paid to such party upon his or her receipt, to be signed in the presence of and to be attested by the officer or clerk making payment thereof, who shall also mark thereon the number of the allotment bill, and shall note on the back of each duplicate of the bill the date and amount of each payment, and the time from and to which the same became payable."

If wife of person
by whom an allot-
ment has been
made shall die, or
desert her family,
&c., payment may
be stopped, or
made to some
other person.

Sect. 35. "In case the wife of any person so making an allotment shall happen to die, or shall desert her children, or so misconduct herself as to be considered undeserving of support from her husband, it shall be lawful for the commissioners of the navy in any of such cases, upon a certificate to that effect under the hands of the minister and churchwardens or elders of the parish or place where such wife shall have been resident, to stop further payments on such allotment bill; and if such wife shall have left any child or children of the party who shall have made the allotment, it shall be lawful for the said commissioners, in case such child or children shall have no other provision for maintenance, upon a certificate to that effect from the minister and churchwardens or elders of the parish or place where such child or children shall have been left, to revoke the allotment bill so payable to the wife, and to make out another bill to any person, being resident there, as the said minister and churchwardens or elders shall recommend to receive the money so allotted, to be applied to the support and maintenance of such child or children."

Allotments may
be revoked by
person making
same;

Sect. 36. "If any person who shall have made an allotment as aforesaid shall be desirous of revoking the same, and shall signify his desire so to do and his reasons for so doing to his commanding officer, such officer shall communicate the same to the commissioners of the navy; and it shall be lawful for the said commissioners, if they shall be satisfied with such reasons, forthwith to stop further payments upon the allotments so revoked, and to cause a fresh allotment bill to be made out, if the circumstances shall require it."

or by commission-
ers in cases of
death or desertion.

Sect. 37. "Whenever it shall appear to the commissioners of the navy, by the muster book or by any other return from the ship or from the hospital or sick quarters, that any person who has made an allotment shall have died, deserted, or by any other means have ceased to be entitled to wages, it shall be lawful for the said commissioners to call in and revoke the allotment made by any such person, and from thenceforth all payment thereon shall cease."

Notice of death of
parties entitled to
receive payment
of allotment.

Sect. 38. "So soon as it shall come to the knowledge of the minister or of any churchwarden or elder of the parish that any person resident therein and entitled to receive payment of an allotment bill is dead, such minister, churchwarden, or elder shall immediately give notice thereof by letter to the commissioners of the navy, or to the officer of the revenue, or clerk to the treasurer of the navy, by whom such allotment is payable, who shall immediately indorse the date of the receipt of such notice upon such allotment bill, and transmit the same to the navy office, and from that time all payments thereunder shall be discontinued."

Payments of
allotments made
by collectors of

Sect. 39. "At the expiration of every three calendar months, but not oftener, the collectors of the customs and excise by whom any payments of allotments shall have been made shall transmit to their respective boards,

to be forwarded to the commissioners of the navy, an account, containing in numerical order, as the allotment bills are numbered, the numbers and dates of the bills, the names of the parties making the allotment, the respective sums and periods for which the payments are made, the amount of payments made by each collector, and the total amount of the payments made during the quarter, which account shall be accompanied by the receipts of the parties to whom the allotments shall have been paid, and the certificates upon which payments shall have been made; and so soon as such account shall have been examined and found correct, the said commissioners shall cause the necessary measures to be taken for the repayment, by the treasurer of the navy, of the amount, or of so much as shall be payable, to the respective boards of customs and excise; and similar measures shall be adopted for the re-payment to the said boards respectively of monies which shall be paid by any such revenue officers upon remittance bills to be made out as herein-after provided."

1. *Royal Navy and Marines.*

11 G. 4 & 1 W. 4,
c. 20.

customs and
excise to be
refunded every
three months.

Sect. 40. "Whenever a ship, not being in any port of the United Kingdom, or on the coast thereof, shall have been twelve calendar months in sea pay, and so from time to time at the end of every six months, the captain shall, at the next subsequent muster of the ship's company, cause to be read over the names of the petty officers, seamen, non-commissioned officers, and privates of marines, and cause each to answer to his name; and if any of them who shall not have made any allotment of their pay shall thereupon declare their desire that the whole or any part of the pay which shall then be payable to them, excepting always for the last six months, shall be paid either to a wife, child or children above the age of eighteen years, father, mother, grandfather, grandmother, brother, or sister, the captain shall cause to be made out and transmitted to the commissioners of the navy a list of such persons, containing their names, their numbers on the ship's books, and the names and residence of the parties to whom they shall desire the same to be paid; and upon the receipt of such list the said commissioners shall cause the requisite steps to be taken for making out the necessary remittance bills in the form heretofore used, or in such other form as shall be found most convenient, to be signed by a commissioner of the navy, and to be addressed to the same persons and in the same manner as allotment bills are by this act required to be addressed." [See this extended by the 4 & 5 Wil. IV. c. 25, s. 7, *post*, 432.]

Foreign remit-
tance bills.

Sect. 41. "Every warrant officer not authorized to draw bills, and every petty officer, seaman, non-commissioned officer, or marine, entitled to the payment of any wages, or the wife of any such warrant officer (being legally empowered to receive her husband's wages), shall, if present at the place where such wages are paid, be at liberty in like manner to make a remittance thereof, or of any part thereof, to any person within the United Kingdom, or if not present, but resident more than seven miles from the place of payment, shall, upon transmitting to the commissioners of the navy a regular certificate of discharge from the service, or other satisfactory proof of identity, be entitled to a remittance bill (but payable to the party only) in any part of his majesty's dominions where naval payments are usually made; and that payment may in like manner be made to the executors and administrators of any such deceased warrant officer, if they shall desire it: provided always, that in the absence of a commissioner of the navy comptrolling the payment of wages at any of the ports where there shall be an establishment of treasurer's clerks, it shall be lawful for the senior officer of the dock yard to sign any remittance bill in the stead of the absent commissioner, noticing after his signature the fact of such absence."

Remittance of
wages payable.

Sect. 42. "Any officer of the royal navy or royal marines entitled to half pay or to a pension, and also any person entitled to any money or allowance from the compassionate fund of the navy, or to his majesty's most gracious bounty given to the relatives of persons slain in fight with the enemy, or to a pension as the widow of an officer of the navy, and any petty officer, seaman, non-commissioned officer, or private marine entitled to a pension or allowance in respect of his services or wounds, shall be at liberty, whenever

Remittance of
half pay and pen-
sions, compassion-
ate fund and out
pensions.

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Penalty on any collector, clerk, &c. delaying payment or taking any fee.

Party to whom allotment bills are payable to appear personally.

* *Sic.*

Power to administer oaths.

If payment of allotment is not demanded within six months, the bill to be returned.

Renewal of bills.

Naval officers and widows entitled to half pay or pensions, may draw

he or she shall think fit, to receive such pay, allowance, bounty, or pension by means of a remittance bill as aforesaid, to be made out by the commissioners or treasurer of the navy, or his clerk, or by the paymaster of the royal marines, as the case may be."

Sect. 43. "If any collector of the customs or excise, or clerk of the treasurer of the navy, or other person authorized to make naval payments, to whom any allotment bill or remittance bill to be made out under this act shall be addressed or presented for payment, shall not then have in his hands sufficient public monies to answer the same, or shall be unable, from any other sufficient cause, to make such payment, he shall forthwith deliver to the party presenting the same a note specifying such cause of his refusal or delay in making payment, dated on the day the demand shall be made, and shall appoint thereon some future day for payment, not later than twenty-eight days from the date of such demand; and if he shall unnecessarily and wilfully refuse or delay payment, or if he shall directly or indirectly accept any fee, reward, or gratuity, or make any deduction or discount whatsoever from any payment made under any allotment or remittance bill, he shall forfeit and pay a penalty of fifty pounds for every such offence."

Sect. 44. "Payment on allotment and remittance bills shall be made only to the party to whom the same shall be expressed to be payable, except in cases where such party shall by illness or bodily infirmity be disabled from appearing personally, in which cases, such disability being certified by the minister and churchwardens of the parish or place where the party shall reside, or by the physician, surgeon, or apothecary attending him or her, and there being no reason to doubt the authenticity or truth of such certificate, payment shall on that occasion be made, on the production of the allotment* or bill, to the order in writing of the party to whom it is made payable: provided always, that in case the officer of the revenue, or clerk to the treasurer of the navy, or other person whose duty it shall be to make payment on any allotment or remittance bill, shall entertain any doubt as to the identity of the party, the authenticity of the vouchers produced, or his or her title to receive payment, such officer, clerk, or other person shall inquire into the same by the oath of the party so applying, which oath such officer, clerk, or other person is hereby authorized to administer for that purpose."

Sect. 45. "In case payment shall not be demanded upon any allotment or remittance bill, during the space of six calendar months from the day of the receipt thereof, by the person by whom it is to be paid, or from the date of the last payment which shall have been made on any allotment, such person shall return the same to the commissioners of the navy; and whenever any such person shall have received notice from the said commissioners of the determination of any allotment, or of its becoming no longer payable, he shall in like manner return the same within two days after the receipt of any such notice, and no payment to be thereafter made shall be allowed to him: provided always, that when any bill made out under the provisions of this act shall for any cause whatever be returned to the commissioners of the navy by the person to whom the same shall have been addressed, before the expiration of the time prescribed by this act, it shall be lawful for the commissioners to cancel such bill, and also, on its being certified on one part of the original bill by the said commissioners or by the treasurer of the navy that reasonable cause had been assigned by the party to whom such bill was payable for so cancelling the same, to cause to be made out another similar bill in duplicate for the like sum of money, which shall be forwarded and paid in the same manner as is provided with respect to the original bill; and if such new bill shall not be paid within the like period as before specified, the same shall be returned and cancelled in like manner, and the sum of money therein mentioned shall then become payable to the party for whose wages or pay it was so made out, or, in case he shall be dead, to his executor or administrator."

Sect. 46. "It shall be lawful for commission and warrant officers entitled to naval half-pay, or to a pension in respect of service or wounds, and for widows of any such officers entitled to a pension as such widows, and for

the executors and administrators of every such officer, to receive such half-pay or pension, or arrears thereof, by drawing a bill of exchange upon the commissioners of the navy in the manner hitherto used, provided they shall previously signify their intention so to do by application to the said commissioners; or if any such officers or widows shall be residing near any of his majesty's dock yards where there shall be any clerk of the said treasurer authorized to pay wages, and they shall signify to him, or to the proper clerk of the navy pay office in London, their desire to be paid by extract, such clerk shall take a note thereof, and shall at such periods as may be necessary make out and transmit to the commissioners of the navy lists of the names of such officers and widows, and the particulars of the half pay or pension claimed, with the usual affidavit in cases of half pay, and the usual certificate of life in the cases of pension (which vouchers shall be supplied to the clerk by the party making the application); and measures shall thereupon be taken at the navy office for forwarding to the proper clerk at the dock yard at which payment is desired to be made extracts from the half pay book or list of officers of the navy entitled to half pay, and from the book or list of pensions payable to commission and warrant officers in respect of services or wounds, and from the widows pension list or book (as is used in the cases of payment of wages upon extracts from the ship's books), in order that payment of such half pay and pension may be made accordingly; and in cases when the parties so entitled to receive any payment of half pay or pension shall not express their desire to receive payment by bill of exchange or extract or by remittance, such half pay and pension respectively shall be paid upon the said lists or books to be made out quarterly as has been heretofore used with respect to half pay, or in such other manner as the commissioners of the navy shall deem most convenient for the public service: provided always, that no person residing out of his majesty's dominions shall be entitled to the benefit of payment of half pay or pension either by bill of exchange, extract, or remittance." [See this provision extended by 2 Wil. IV. c. 40, s. 16, *post*, 425.]

Sect. 47. "All assignments or sales and contracts made or to be made by any person entitled to any marine half pay, or by any person entitled to an allowance from the compassionate fund, or to any pension as the widow of an officer, of or in relation to such half pay, allowance, or pension respectively, and all assignments or sales and contracts of or relating to any wages, half pay, prize money, pension, gratuities, and other allowance payable in respect of the services of any petty officer or seaman, non-commissioned officer of marines or marine, shall be null and void to all intents and purposes."

Sect. 48. "And whereas it is expedient to establish regulations for the prevention of forgery and fraud, which have been heretofore much practised in relation to the pay of the royal navy; be it further enacted, that no will made by any petty officer or seaman, non-commissioned officer of marines or marine, before his entry into his majesty's service, shall be valid to pass any wages, prize money, or other monies payable in respect of services in his majesty's navy; and that no letter of attorney made by any such person who shall be or shall have been in the said service, or by the widow, next of kin, executors, or administrators of any such person, shall be valid or sufficient to entitle any person to receive any wages, prize money, or other allowance of money of any kind for the service of any such person in his majesty's navy, unless such letter of attorney shall be therein expressed to be revocable, and that no such letter of attorney shall be valid or sufficient to entitle any person to receive any such wages or other monies; nor shall any will made or to be made by any petty officer or seaman, non-commissioned officer of marines or marine, who shall be or shall have been in the naval service of his majesty, be valid or sufficient to pass any such wages, prize money, or other monies, unless such letter of attorney or will respectively shall contain the name of the ship to which the person executing the same belonged at the time or to which he last belonged, nor unless such letter of attorney, if made by an executor

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on the navy board
or be paid by
extract.

Assignments of
half pay, &c. void.

Mode of exe-
cuting letters of
attorney and
wills.

1. *Royal Navy or administrator*, shall contain the name of the ship to which his *and Marines*, or her testator or intestate last belonged, and also in every case a full description of the degree of relationship or residence of the person or persons to whom or in whose favour, either as attorney or attornies, executor or executors, the same shall be made, and also the day of the month and year, and the name of the place when and where the same shall have been executed, nor shall any such letter of attorney or will be valid for the purposes aforesaid unless the same respectively shall, in the several cases herein-after specified, be executed and attested in the manner herein-after mentioned; (that is to say,) in case any such letter of attorney or will shall be made by any such petty officer or seaman, non-commissioned officer of marines or marine, while belonging to and on board of any ship of his majesty as part of her complement, or borne on the books thereof as a supernumerary or as an invalid, or for victuals only, the same shall be executed in the presence of and be attested by the captain, or (in his absence) by the commanding officer for the time being, and who in that case shall state at the foot of the attestation the absence of the captain at the time, and the occasion thereof; and in case of the inability of the captain, by reason of wounds or sickness, to attest any such will or letter of attorney, then the same shall be executed in the presence of and be attested by the officer next in command, who shall state at the foot of such attestation the inability of the captain to attest the same, and the cause thereof; and if made in any of his majesty's hospital ships, or in any naval or other hospital, or at any sick quarters either at home or abroad, the same shall be executed in the presence of and be attested by the governor, physician, surgeon, assistant surgeon, agent, or chaplain of any such hospital or sick quarters, or by the commanding officer, agent, physician, surgeon, assistant surgeon, or chaplain for the time being of any such hospital ship, or by the physician, surgeon, assistant surgeon, agent, chaplain, or chief officer of any military or merchant hospital or other sick quarters, or one of them; and if made on board of any ship or vessel in the transport service, or in any other merchant ship or vessel, the same shall be executed in the presence of and be attested by some commission or warrant officer or chaplain in his majesty's navy, or some commission officer or chaplain belonging to his majesty's land forces or royal marines, or the governor, physician, surgeon, or agent of any hospital in his majesty's naval or military service, if any such shall be then on board, or by the master or first mate thereof; and if made after he shall have been discharged from his majesty's service, or if such letter of attorney be made by the executor or administrator of any such petty officer or seaman, non-commissioned officer of marines or marine, if the party making the same shall then reside in London or within the bills of mortality, the same shall be executed in the presence of and be attested by the inspector for the time being of seamen's wills and powers of attorney, or his assistant or clerk; or if the party making the same shall then reside at or within the distance of seven miles from any port or place where the wages of seamen in his majesty's service are paid, the same shall be executed in the presence of and be attested by one of the clerks of the treasurer of the navy resident at such port or place; or if the party making such letter of attorney or will shall then reside at any other place in Great Britain or Ireland, or in the islands of Guernsey, Jersey, Alderney, Sark, or Man, the same shall be executed in the presence of and be attested by one of his majesty's justices of the peace, or by the minister or officiating minister or curate of the parish or place in which the same shall be executed; or if the party making the same shall then reside in any other part of his majesty's dominions, or in any colony, plantation, settlement, fort, factory, or any other foreign possession of his majesty, or any settlement within the charter of the East India Company, the same shall be executed in the presence of and be attested by some commission or warrant officer or chaplain of his majesty's navy, or commission officer of royal marines, or the commissioner of the navy, or naval storekeeper at one of his majesty's naval yards, or a minister of the Church of England or Scotland, or a

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magistrate or principal officer residing in any of such places respectively ; 1. *Royal Navy and Marines.*
 or if the party making the same shall then reside at any place not within his majesty's dominions, or any of the places last mentioned, the same shall be executed in the presence of and be attested by the British consul or vice consul, or some officer having a public appointment or commission, civil, naval, or military, under his majesty's government, or by a magistrate or notary public of or near the place where such letter of attorney or will shall be executed ; nor shall any will of any petty officer, seaman, non-commissioned officer of marines or marine, be deemed good or valid in law, to any intent or purpose, which shall be contained, printed, or written in the same instrument, paper, or parchment with a power of attorney : provided always, nevertheless, that if it shall appear to the satisfaction of the treasurer of his majesty's navy, in the case of any will or letter of attorney executed on board any of his majesty's ships, that in the attestation thereof the captain's signature hath by accident or inadvertence been omitted, and that in all other respects the execution has been conformable to the provisions and to the intent and meaning of this act, it shall be lawful for the inspector of seamen's wills and powers to pass the same as valid and sufficient."

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Sect. 49. "Every letter of attorney or will which hath been or which hereafter shall be made by any petty officer or seaman, non-commissioned officer of marines or marine, while any such person hath been or shall be a prisoner of war, shall be valid to all intents and purposes, provided it shall have been executed in the presence of and be attested by some commission officer of the army, navy, or royal marines, or by some warrant officer of his majesty's navy, or by a physician, surgeon, or assistant surgeon in the army or navy, agent to some naval hospital, or chaplain of the army or navy, or by any notary public ; but so as not to invalidate or disturb any payment which hath been already made under any letter of administration, certificates, or otherwise, in consequence of the rejection of any such wills by the inspector of seamen's wills for want of the due attestation thereof according to the directions of any former act of parliament."

Exception as to
wills made by pri-
soners of war.

Sect. 50. "All officers commanding ships shall, upon their monthly muster books or returns, distinguish which of the persons therein named have made any letter of attorney or will during that month, or other space of time from the preceding return, by inserting the date of such letter of attorney or will opposite the party's name, under the heads of 'letter of attorney' or 'will,' or both, as the case may require ; and shall likewise transmit to the treasurer of the navy, at the time such returns are transmitted to the navy office, a list to the same effect of all such persons."

Wills, &c. to be
noted in the
muster book.

Sect. 51. "Before any letter of attorney or will shall be attempted to be acted upon or put in force, the same shall be sent to the treasurer of the navy, at the navy pay office, London, in order that it may be examined by the inspector of seamen's will and letters of attorney, who, or his assistant, shall, on receipt thereof, duly register the same in a numerical and alphabetical manner in separate books to be kept for that purpose, specifying the date, the place where executed, the name and description of the party making the same, the names and additions of the persons described therein either as attornies or executors, and also of the witnesses attesting the same, and shall mark the same with the corresponding numbers in the ship's books ; and the said inspector shall take due means to ascertain the authenticity of every such letter of attorney and will, and in case he shall have reason to suspect its authenticity, he shall give notice in writing to the attorney or executor, as the case may be, that the same is stopped, and the reason thereof, and shall also report the same to the treasurer of the navy, and shall enter his caveat against such letter of attorney or will, which shall prevent any money from being received thereon until the same shall be authenticated to the satisfaction of the said treasurer ; but if there shall be no reason upon such examination to doubt its authenticity, the said inspector or his assistant shall sign his name thereto, and also put a stamp thereon in token of his approbation thereof, and, as to such letters of attorney, forthwith send

Letters of attor-
ney and wills to
be examined by
the inspector.

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No letter of attorney to be passed until a certificate be produced.

As to wages claimed under powers of attorney and indentures.

Assignment of pay by commission and warrant officers.

Mode by which executors are to obtain probate.

to the person therein named as attorney a check specifying the number of such letter of attorney, the name and description of the person granting the same, the name and addition of the person in whose favour the same is granted, the date and place when and where executed, and the names of the witnesses attesting the same, which check shall be a sufficient authority for the attorney to demand and receive payment of and to give acquittances for all such wages, pay, or other allowances of money to which the person granting the same was entitled for his service on board any of his majesty's ships."

Sect. 52. "No letter of attorney of any petty officer or seaman, non-commissioned officer of marines or marine, which shall not have been made or executed on board the ship to which the party shall have belonged, in the manner required by this act, shall be passed, stamped, or allowed by the said inspector until a certificate shall have been produced to him, under the hand of the captain, specifying the period of the party's service on board under the command of such captain, and a description of his height, complexion, and age, unless reasonable cause shall be shown to and allowed by the said treasurer or inspector for dispensing with such certificate."

Sect. 53. "The treasurer of the navy shall not be bound to pay regard to any power of attorney, or check of any power, under which any wages may be claimed as due to any officers, seamen, or marines, unless such power or check of power, as the case may be, shall be actually produced at the time payment is claimed, and, in the case of an officer's pay, unless the power or a copy of the power be left with the proper officer of the said treasurer, accompanied with the usual certificates and papers; and in cases of the wages of a seaman or marine being claimed by any master under any indenture of apprenticeship, every such master shall, before he shall be entitled to receive the same, adduce satisfactory proof to the officer of the said treasurer that the indenture to be produced by him was in full force during the period for which such wages are claimed, and that the apprentice was, at the time of the execution of the indenture, under the age of eighteen years, and had not previously used the sea; but in case the indenture shall not be produced at the pay table when the wages shall be demanded, and such proof as aforesaid shall not be given, such wages shall be paid to the apprentice, and not to the master."

Sect. 54. "All wages, pay, and other allowances payable for the service of any commission or warrant officer of his majesty's navy, shall be paid to the officer himself, if present, at the pay table, or to his lawful attorney, upon the production of the usual certificates; but if he shall have assigned or sold his pay, the same shall be paid to the assignee, being duly authorized to receive the same; and if there shall be more assignments than one, they shall be satisfied according to priority of date; but the treasurer of the navy shall not pay regard to any assignment which shall not be presented at the pay table, accompanied by the usual certificates and papers, at the time the wages or pay are appointed to be paid, and unless a true copy of such assignment be left at the same time with the said treasurer, nor shall he be liable to pay under any assignment conveying generally any annual or other periodical wages or allowance to grow due, but only under such assignments of wages, pay, or other allowances due, as shall be made to secure payment of any sum advanced by the assignee, which shall be truly set forth in such assignment, and for the amount of which, and no more, the wages, pay, and other allowances payable to the officer shall be liable."

Sect. 55. "When any petty officer or seaman, non-commissioned officer of marines or marine, who shall have belonged to any ship of his majesty, shall have died, leaving a will, no wages, prize money, or other allowance of money shall be paid over to or recovered by his executor or executors except upon the probate of the will, to be obtained in the following manner: *videlicet*, after such will shall have been so transmitted, registered, and

approved as herein-before directed, the inspector shall cause to be issued to the person named therein as executor a cheque in lieu thereof, containing directions to return the same, with his or her signature thereto, upon the testator's death, to the treasurer of his majesty's navy, which cheque shall be in the form heretofore used in such cases, or in such other form as the treasurer of the navy shall deem most expedient and conducive to the purposes of this act, and shall have the requisite certificates in blank subscribed thereto, to be filled up as herein-after mentioned; and in the event of the testator's death, the minister or curate of the parish in which the party named as executor shall then reside shall, upon the application of the executor, examine him, and such two inhabitant householders of the parish as may be disposed to certify their personal knowledge of the holder of the cheque, touching his claim, and that they are satisfied of his being the person therein described as executor; and the said executor shall subscribe his name to the application, and the two householders their names to the certificate for that purpose subjoined to the cheque (the blanks therein being first filled up agreeable to truth), in the presence of the minister or curate, for which respective purposes the said executor and householders shall attend at such time and place as shall be appointed by the minister or curate, who being, upon examination of the several parties, satisfied with their answers, and that the person holding the cheque is the executor therein named, and that the two persons certifying as before required are inhabitant householders of the parish, and having seen the said parties sign the application and certificate respectively (which he is hereby required to do), shall add thereto a description of the height, complexion, colour of eyes and hair, age, and any particular marks about the person of the party claiming as executor, and, after the several blanks shall have been filled up agreeable to truth, shall certify to the several particulars by subscribing his signature thereto; and the said executor shall, before signing the application, pay to the said minister or curate a fee of two shillings and sixpence for his trouble on the occasion; and the said application and certificates being in all things completed according to the directions therein and hereby given, the same shall be transmitted by the said minister or curate by the general post, addressed to the treasurer of the navy, London; and the said original will having been passed in the manner directed by this act, the inspector shall note thereon the amount of the wages due to the deceased, as calculated on the search to be obtained from the navy office, and shall then forward such will to a proctor, in order to his obtaining probate thereof; and in case the executor shall not reside within the bills of mortality, the inspector shall also forward to such proctor a letter addressed to the minister, in the usual or other requisite form, for the purpose of its being transmitted to him with the commission for administering the necessary oath to the party as executor; and such proctor, having received the will and the said letter of the inspector, (in case such letter shall be necessary,) shall immediately sue out the previous commission or requisition, or take such other steps as may be necessary towards enabling the executor to obtain probate, and shall inclose in the said letter a copy of the will and the commission or requisition, with instructions for executing the same, and forward the same to the minister by the general post, agreeably to the address put thereon by the inspector." [See the 4 & 5 Wil. IV. c. 25, s. 8, *post*, 437.]

Sect. 56. "When any petty officer or seaman, non-commissioned officer of marines or marine, shall die intestate, leaving any wages, prize money, or other allowances of money of any kind due to him in respect of services in his majesty's navy, the same shall not be paid to his representatives, except upon letters of administration to be obtained in the following manner; *videlicet*, the person claiming administration shall send a letter to the inspector, stating his place of abode, the parish in which the same is situate, his degree of relationship to the deceased, the names of the deceased and of the ship or ships to which he belonged, that he has been informed of the intestate's death, and requesting the inspector to give such directions as may enable him to procure letters of administration to the deceased's effects,

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Mode of obtaining administration to intestate's effects.

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or to the like effect, upon receipt whereof the inspector shall send by post, under cover, to the minister of the parish wherein the claimant shall reside, a petition in the form heretofore in such cases used, or in such other form as the treasurer of the navy shall deem most expedient and conducive to the purposes of this act, together with the requisite certificates in blank, to be filled up as hereafter mentioned, and a letter pointing out the steps to be taken thereon as hereinafter in that behalf contained, and shall also send to the claimant a letter advising him of the forwarding of the said petition or paper as aforesaid, and pointing out the measures to be taken by him for substantiating his claim; and upon receipt of the said petition the minister, officiating minister, or curate shall, on the application of the claimant, examine him, and also such two inhabitant householders of the parish as may be disposed to certify their personal knowledge of him, and their belief of his right to administer to the effects of the intestate, according to the degree of relationship set forth at the head of the petition; and the minister or curate being, upon due examination of the claimant and the said two householders, satisfied of the truth of their answers, and having seen the claimant sign the application, and the two householders sign the certificate, (which the minister is required to do,) shall add thereto a description of the height, complexion, colour of eyes and hair, age, and any particular marks about the person of the claimant, and after the blanks in the said petition, certificates, and description for those several purposes shall have been filled up agreeable to truth, shall certify to the several particulars by subscribing his signature thereto, for which respective purposes the said claimant and the householders shall attend at such time and place as the minister or curate shall appoint; and the claimant shall, before signing the petition, pay to the minister or curate a fee of two shillings and sixpence for his trouble on the occasion; and the said paper being in all things completed according to the directions therein and hereby given, the minister shall return the same by the general post addressed to the treasurer of the navy, London; and upon the receipt thereof at the navy pay office, the inspector shall examine the same, and, being satisfied of the claim, he shall transmit to a proctor a certificate thereof (in the form heretofore used, or in such other form as the treasurer of the navy shall deem expedient); and in case the claimant shall not reside within the bills of mortality, the inspector shall at the same time inclose and send to the said proctor a letter addressed to the minister and churchwardens or elders, (as the case may be,) of the parish within which the claimant then shall reside, signifying the transmission of a commission (which the proctor is to obtain) for swearing the claimant as administrator, with the necessary instructions for executing the same; and the proctor shall, upon receipt thereof, take the requisite steps towards enabling the claimant to obtain letters of administration, and shall, in the inspector's letter to the minister, inclose the commission or other necessary instrument, with instructions for executing the same, and shall forward such letter and inclosures by the general post, agreeably to the address put thereon by the said inspector."

Minister or curate
rejecting petition
to state his
reasons.

Sect. 57. "In case the minister or curate shall reject any petition for want of satisfactory proof of the claim, he shall state his reasons for such rejection on the said petition, and forthwith return the same to the treasurer of the navy as aforesaid; and in case no application shall be made to the minister or curate by the claimant, or no effectual steps shall be taken by him to complete the petition and the certificates within the space of two calendar months from the date of the inspector's letter accompanying such petition, the minister or curate shall, at the expiration of that time, return the petition to the treasurer of the navy as aforesaid, with his reason for doing so noted thereon."

Minister to pro-
cure execution of
commission.

Sect. 58. "Every minister to whom any such letter, with a commission or requisition for swearing any executor or administrator, shall be transmitted, shall, immediately upon the receipt thereof, take the necessary steps for procuring the execution of the same, and shall transmit the same, when executed, directed to the treasurer of his majesty's navy, London; and if

the executor or administrator shall reside at a distance from the place where the wages or other allowances of money are payable, he shall specify the name and residence of the nearest or most convenient collector of customs or of excise; and upon receipt of the said commission at the navy pay office, the same shall be forwarded to the proctor, who, in pursuance thereof, shall forthwith procure the requisite probate or letters of administration, and when obtained transmit the same to the inspector at the navy pay office."

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Sect. 59. "When any probate or letters of administration shall have been so obtained, the proctor employed therein shall immediately send the same to the treasurer of the navy, with a copy of the will (in the case of probate), and an account of his charges for the same; and upon receipt thereof the inspector shall issue a check, containing the heads of such probate or letters of administration, and shall note thereon the amount of the proctor's charges and the address of the claimant, which check shall be in the form heretofore used in the navy pay office, or in such other form as the treasurer of the navy shall deem most expedient for the purpose; and so soon as the wages and prize money due to the deceased shall have been calculated in the proper departments, the amount shall be noted on the check, and, after abating the proctor's charges, the balance shall be paid to the party personally, or by means of a remittance bill, in the manner and under similar regulations as are hereinbefore provided with respect to other remittances of wages, and the check shall then be delivered to the party to stand instead of probate or letters of administration, to enable him to receive whatever other sums may become payable to the deceased's estate."

Check to be issued by inspector.

Sect. 60. "If any proctor, registrar, or other officer of any ecclesiastical court shall deliver or cause to be delivered any letters of administration, probate of will, or letters of administration with will annexed, to any other person than the treasurer of the navy or the said inspector, in the manner directed by this act, such proctor or other officer so offending shall for every such offence forfeit the sum of one hundred pounds; and if any agent or agents for prizes shall pay any prize money due to a petty officer or seaman, non-commissioned officer of marines or marine, under any authority whatever, other than the inspector's check directed by this act, such payment shall be null and void, and the agent or agents so paying the same shall forfeit for every and each such offence a sum equal to the amount of the prize money paid."

No proctor to deliver out probate or letters of administration to any other than the treasurer.

Sect. 61. "No registrar, proctor, or other officer of any ecclesiastical court shall, under any pretence, take or receive any more for the stamp, seal, parchment, writing, fees, and trouble attending the suing forth the probate of any will or any letters of administration to the effects of any warrant or petty officer or seaman, non-commissioned officer of marines or marine, whereby any person may be enabled to obtain any wages, prize money, or other allowance of money of any kind in respect of services in the navy, than the several sums specified in the schedule hereunto annexed [by the 2 Wil. IV. c. 40, another schedule of fees is substituted, see *post*, 425]: provided nevertheless, that if any increase or diminution shall take place in the stamp duties payable on any instrument connected therewith, then the charges shall be increased or diminished to the extent of the change in such duties, but no further: provided always, that in cases of extraordinary trouble or expense, the proctor shall be allowed to make additional charges in proportion thereto, and if the same shall appear reasonable to the inspector he may allow the same, but otherwise the same shall be submitted to the treasurer of the navy, and if he shall disapprove thereof, the same shall be taxed by the proper officer of the court, without fee or reward, unless the charges shall have arisen in consequence of any litigation or suit, in which case a fee of three shillings shall be allowed to the officer for taxation."

Limiting the expense of probate.

Sect. 62. "If any officer, proctor, or other person shall take more than the several sums allowed in the said schedule, [by the 2 Wil. IV. c. 40, another schedule of fees is substituted, see *post*, 425] every person so offending shall forfeit the sum of fifty pounds, with full costs of suit; or if any regis-

Penalty on proctors, &c. offending against this act.

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Manner of proceeding in case of executors, &c. dying before the receipt of wages.

For preventing fraudulent claims by pretended creditors of seamen and marines.

trar, proctor, or other officer of any ecclesiastical court shall knowingly or willingly be aiding or assisting in procuring probate of any will or letters of administration, whereby any person may be enabled to claim any wages, pay, prize money, or allowance of money of any kind for the services of any such petty officer or seaman, non-commissioned officer of marines or marine, otherwise than in the manner prescribed by this act, every such registrar, proctor, or other officer shall for every such offence forfeit and pay the sum of five hundred pounds, and shall moreover forfeit his office and be rendered incapable of acting in any capacity in any court of admiralty or ecclesiastical jurisdiction."

Sect. 63. "When the executor or administrator of a deceased petty officer or seaman, non-commissioned officer of marines or marine, shall die before he shall have received the wages, prize money, or other allowances payable to his testator or intestate, it shall be lawful for the inspector to investigate the right of any person claiming payment of the same or to represent according to law the person of such deceased petty officer or seaman, non-commissioned officer of marines or marine, and, being satisfied of such right, to certify the name and place of abode of such person upon the check or certificate, and that in his judgment the claimant is the rightful representative of such deceased petty officer or seaman, non-commissioned officer of marines or marine, and entitled to receive whatever may remain due in respect of his services as aforesaid; and thereupon if the wages, prize money, and other allowances remaining unpaid shall appear to the inspector not to amount nor likely to amount to more than the sum of twenty pounds, then it shall be lawful for the said treasurer, and also for any agent or agents for prizes respectively, to pay to such person all wages, pay, prize money, bounty money, and other allowances of money so due or to become payable, without requiring him to take out fresh letters of administration; but if the same shall amount or appear to the said inspector to be likely to amount to more than that sum, then the same shall only be paid upon fresh letters of administration, to be obtained in the manner hereinbefore directed."

Sect. 64. "And for preventing frauds, which have been frequently practised by persons falsely pretending to be creditors of deceased seamen and marines, be it further enacted, that no letters of administration shall be granted to any person claiming as a creditor of any deceased petty officer or seaman, non-commissioned officer of marines or marine, but that every such creditor shall be entitled to receive the amount of his claim (if just) out of the assets of the deceased, or so far as the same will extend for that purpose, when the just amount of the debt or claim shall have been ascertained and approved as hereinafter provided; (that is to say,) every person claiming as a creditor shall deliver to the said inspector an account in writing, subscribed with his name, stating the particulars of the demand and the place of his abode, and verified by his oath, or, being a quaker, by his affirmation in writing taken before any justice of the peace, which oath or affirmation any such justice is hereby empowered to administer; and if any application for a certificate to obtain probate of the will or letters of administration to the effects of the deceased shall be made, the inspector shall give notice to the applicant of the name and place of abode of the creditor, and the amount of the debt, and shall also cause notice to be given to the creditor of the place of abode of such applicant; but if no such application shall have been made at the time of the delivery of the claim, the inspector or other person authorized by the said treasurer shall proceed to investigate the account of such creditor, for which purpose he is hereby empowered and directed to require from such creditor a production before him of all books, accounts, vouchers, and papers relating to his demand, and satisfactory evidence thereof; and if such creditor shall, by due proof, satisfy the said inspector or other authorized person of the justice of the demand in part or in the whole, then the same shall be allowed as shall appear just; but if all books, accounts, vouchers, and papers shall not be produced, or a sufficient reason assigned for not producing the same, or if the said inspector or other authorized person shall not be satisfied of the justice of the demand, then he shall disallow the

same: provided always, that in case such creditor shall be dissatisfied, he shall be at liberty to appeal against such decision to the said treasurer, who shall thereupon inquire into the same by the examination of the parties and their witnesses upon oath or affirmation taken or made before the said treasurer or any justice of the peace, (which oath or affirmation the said treasurer and any justice as aforesaid are hereby severally authorized to administer,) and to allow or disallow the claim, in part or in the whole, as to the said treasurer shall seem fit, and the decision of the said treasurer shall be final and conclusive in the premises: provided always, that no claim of any creditor shall be admitted or allowed unless the same be made within two years next after the death of the party upon whose assets the claim is made, nor unless the same shall appear to have accrued within three years next before the death of such party."

Sect. 65. "If within the space of twelve calendar months from the delivery of the claim no application shall have been made by any person in the character either of executor or administrator, the creditor shall be entitled to receive so much as shall have been allowed to be due to him as aforesaid out of the monies payable in respect of the services of the deceased, so far as they will extend to satisfy the same, and thereupon the inspector shall grant to the creditor a certificate of the allowance of such claim in the form heretofore used, or in such other form as shall by the said treasurer be deemed expedient, and so much of such wages as shall be sufficient to satisfy the claim so allowed shall be paid or remitted to the creditor in the manner herein provided for the remittance of wages to executors or administrators: provided always, that if any prize money or bounty money shall be due to the deceased, the same shall be payable to such creditor only in the manner hereinafter directed; (that is to say,) if the wages and other allowances of money shall not be sufficient to discharge the claim, the proper officer in the navy pay office shall state at the foot of the certificate the amount paid to the creditor, and it shall not be lawful for the creditor to demand or receive from any person any prize money or bounty money due to the deceased except as hereinafter next mentioned; (that is to say,) such prize and bounty money, if the same shall be in the hands of an agent, shall be paid over as in cases of unclaimed prize money, and the creditor, on the production of such certificate to the officer appointed to pay the prize money, shall be entitled to receive from him so much of the deceased's prize money or other allowances as shall be sufficient to discharge his demand, and upon the same being satisfied, the inspector shall retain the certificate as a voucher or document of office: provided also, that if there shall be more creditors than one, they shall be satisfied according to the priority of the allowance of their respective claims, but so as not to deprive any creditor of any priority he may by law be entitled to by reason of any specialty, provided notice in writing of the particulars of such specialty shall have been given to the treasurer of the navy in due time."

Sect. 66. "And whereas by an act of the fifty-fourth year of the reign of his late majesty, for regulating the payment of navy prize money, agents for prizes are prohibited from paying any prize money or bounty money to any person upon any order made within the distance of five miles of the place where the same shall be payable, (such prize money or bounty money being in course of distribution at the time of making such order,) under the penalty therein mentioned; be it further enacted, that if any agent licensed by the treasurer of his majesty's navy, or if any other person, shall insert or cause to be inserted in any order for payment of prize money or bounty money payable in respect of the services of any petty officer or seaman, non-commissioned officer of marines or marine, in his majesty's navy, the name of any captured ship, vessel, fortress, or place, the proceeds of which or the bounty money payable in respect whereof shall be then in course of distribution within six miles of the place where such name or names shall be inserted, and where such order shall be intended to be attested under the provisions of the said last-mentioned act, or shall utter any such order with the name or names of any such captured ship, vessel, fortress, or place

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Creditors to be paid if there are no executors or administrators.

Agents not to produce prize orders executed within six miles of the place of payment.

1. *Royal Navy and Marines.* inserted therein, for the purpose of demanding or receiving payment of any prize money or bounty money for or in respect of such captured ship, vessel, fortress, or place, such prize money or bounty money being then in course of distribution or payment within six miles of the place where such order shall have been made or drawn and attested, every such person so offending shall forfeit and pay the sum of fifty pounds."

11 G. 4 & 1 W. 4,
c. 20.

Captains to deliver certificates to discharged seamen.

Sect. 67. "When any petty officer or seaman, non-commissioned officer of marines or marine, shall be discharged for any cause from any ship of his majesty, the captain shall cause to be made out and sign a certificate describing the period of such discharged person's service on board the ship, his number on the ship's books, and his stature, complexion, and age, which shall be delivered to the party at the time of his discharge; and no petty officer, seaman, non-commissioned officer, or marine shall be entitled to receive his wages, prize money, or other allowances, unless he shall produce such certificate at the time the same are claimed, or unless he shall be identified by one or more of the commission or warrant officers who belonged to the vessel during some part of the period for which he may so claim; and no petty officer or seaman, non-commissioned officer of marines or marine, who shall be discharged from any ship of his majesty into any other such ship, shall be entitled to receive any wages or allowances for the ship to which he shall have last belonged unless he shall enter and be mustered three times in the ship into which he shall be so discharged, or shall appear upon the books of the ship into which he shall next go to have been regularly discharged therefrom; or in case of his having been taken by the enemy, or if the ship in which he shall have last served shall have been lost or destroyed, and he shall have survived, unless he shall return so soon as it shall be in his power to do so, and enter again within a reasonable time on board some ship of his majesty; or in case he shall be discharged from his ship to any naval hospital or sick quarters, unless he shall return to his ship when discharged from such hospital or sick quarters, or be discharged out of the service; or unless in any of the said events reasonable cause be shown to and allowed by the commissioner of the navy comptrolling such payment, and the clerk of the treasurer of the navy making the same, for not producing such certificate, or for non-compliance with any thing herein directed."

Payment of orders under 10*l.* executed by seamen.

Sect. 68. "When any wages not exceeding ten pounds shall be payable by the rules of the navy to any petty officer or seaman, non-commissioned officer of marines or marine, it shall be lawful for him to make an order in writing for payment of the same upon the treasurer of the navy, which order nevertheless shall be revocable as in the case of powers of attorney, and the same shall be attested by the captain or any other of the signing officers, or a lieutenant of the ship on board of which such wages were earned, accompanied with a certificate, from one of the signing officers or lieutenants, of the particulars of the service of the drawer of such order; and the said order and certificate shall be examined by the inspector of seamen's wills, and if he sees no cause to suspect the authenticity thereof he shall stamp and pass the same for payment, but otherwise he shall report the same to the treasurer of the navy, and shall enter his caveat, which shall prevent any money from being received thereon until the same shall be authenticated to the satisfaction of the said treasurer; and if the party making such order shall have been discharged from his majesty's service, the order shall be attested in the like manner as is hereinbefore directed with respect to the attestation of letters of attorney, and shall be accompanied by the like certificates of service, and be subject to the like examination and caveat, as is above directed with regard to orders made by persons in his majesty's service: provided always, that the privilege hereby given shall not extend to any person who shall have been discharged from his majesty's service for any other cause than being unserviceable, but every such last mentioned person shall, according to the rules of the navy, wait until the ship from whence he shall have been discharged shall come in course of payment."

Sums not exceed-

Sect. 69. "And in order to avoid the expense which the relatives of

deceased officers, seamen, and marines may be otherwise obliged to incur to obtain payment of small sums due for the services of such deceased persons, be it enacted, that in all cases when any monies not exceeding twenty pounds shall be due on account of any wages, prize money, or other allowances payable on account of the services of any deceased petty officer, seaman, non-commissioned officer of marines or marine, it shall be lawful for the inspector of seamen's wills, after having by the requisite previous steps, as before directed, ascertained the right of any claimant to probate of the will or to administration of the effects of the deceased, to issue a check or certificate to that effect, in such form as by the treasurer of the navy shall be deemed expedient; and to the same end, in all cases when any monies not exceeding in the whole the sum of thirty-two pounds shall be payable on account of any pay or half pay or pension of any deceased officer of the navy or royal marines, or of any pension to any deceased widow of an officer, or on account of any allowance from the compassionate fund to any deceased person, it shall be lawful for the said treasurer of the navy or for the paymaster of royal marines, as the case may be, after having ascertained in a satisfactory manner the right of any claimant to probate of the will or to letters of administration of the effects of the deceased, and that the deceased has not left any other assets to be administered than the arrears of pay, half pay, pension, or allowance, not exceeding thirty-two pounds as aforesaid, to issue a certificate to that effect, in such form as shall be deemed expedient; and upon such check or certificate of the inspector, and upon such certificate of the treasurer of the navy and paymaster of royal marines respectively, payment of the monies so due, not exceeding the respective sums of twenty pounds and thirty-two pounds as aforesaid, shall be made to the parties named in such checks and certificates respectively, either personally, or, if they shall desire it, by remittance bill in the manner by this act provided with respect to payments by remittance; and all payments made under such checks and certificates, not exceeding the respective sums aforesaid, shall be as effectual and legal as if the same had been made under any probate of a will or letters of administration duly granted by the proper court, and shall be allowed to the said treasurer and paymaster of royal marines, in their respective accounts."

Sect. 70. "And whereas many cases occur of officers of the royal navy and royal marines, and of seamen and marines, entitled to pay, half pay, pension, or prize money, becoming insane or lunatic, in which it is not deemed by their relatives expedient, by reason of the expense and of there being no other monies or estate to administer, to take measures according to law for obtaining a commission of lunacy; and it is expedient that the monies accruing due to them should be advanced for their support; be it therefore enacted, that in any of such cases, when it shall be made appear to the treasurer of the navy or to the paymaster of royal marines, as the case may be, by satisfactory evidence, that any officer, seaman, or marine is insane, lunatic, or otherwise, from his state of mind, incompetent to the management of his affairs, it shall be lawful for the said treasurer or paymaster to pay over to the wife, relative, or other person having the care and maintenance of such incompetent person, such monies as shall become payable, or such portion thereof as the lord high admiral or the commissioners for executing the office of lord high admiral aforesaid shall think fit, to be applied towards the maintenance and support of such incompetent person; and every payment so made shall be deemed good and valid, and be allowed to the said treasurer and paymaster respectively in their accounts."

Sect. 71. "All pensions to which the widows of officers of the royal navy are or may be entitled under any commission, warrant, or order of his majesty, shall be paid in the same manner as other pensions for services in the royal navy are payable; and that it shall be lawful for the lord high admiral, or the commissioners for executing the office of lord high admiral, or any two or more of them, for the time being, to make such orders, rules, and regulations, and from time to time to alter the same, in relation to the payment of half pay to the officers of royal marines, and of the allowances

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ing 20l. due to deceased petty officers to be paid on certificate.

Monies due to lunatic officers and men made payable to persons having the care of them.

Pensions to widows.

Admiralty may make regulations for the payment of marine half pay, &c.

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Wages, pay, prize money, &c., not claimed within six years, to be declared forfeited.

Letters to and from the treasurer or paymaster to go free.

Limitation.

Letters to and from certain other officers to go free.

Regulation as to such letters.

Penalty for infringing such regulations.

Letters relating to the business of the commissioners of the navy or the victualling department to go free, subject to the regulations herein mentioned.

from the compassionate fund of the navy, and also as to any certificates, vouchers, receipts, or orders for the better regulating, managing, and making such payments, and to require such proofs and affidavits relating thereto as they shall deem requisite for the ordering and securing the payment of such half pay and allowances: provided always, that every such order, rule, or regulation may from time to time be revoked or altered by any warrant or order under his majesty's royal sign manual."

Sect. 72. "In all cases in which any wages, pay, half pay, prize money, bounty money, pension, gratuity, or allowance of any kind payable in respect or in consideration of the services of any officer, seaman, or marine in the royal navy, shall not be claimed or demanded by or on the behalf of the person to whom the same was so payable, or, in case of his or her death, by any person legally entitled thereto, within six years next after the period at which the same respectively first became due and payable, or the services in respect of which the same may be payable were performed, the same shall and are hereby declared to be forfeited: provided always, that it shall be lawful for the lord high admiral or the commissioners for executing the office of lord high admiral for the time being, upon sufficient cause being shown for any delay or neglect which may have occurred in making any such claim, to exercise a discretion thereupon, and to authorize the payment of the same, notwithstanding any such forfeiture thereof."

Sect. 73. "All letters and packets addressed to or sent by the treasurer or the paymaster of the navy for the time being shall be sent and received free from the duty of postage, in the same manner and under the same restrictions as the paymaster general of his majesty's forces is by law authorized to send and receive letters and packets free of postage: provided always, that so far as relates to the paymaster of the navy, the provision herein contained shall not continue in force beyond the thirty-first day of December, one thousand eight hundred and thirty."

Sect. 74. "All letters and packets addressed to and sent by the inspector of seamen's wills and letters of attorney for the time being, upon any business or affairs of or relating to the said office of inspector, and all letters and packets in relation to officers and seamen's wages sent, in the execution of this act, by the cashier or other officer in the navy pay office appointed for paying seamen's tickets, and all letters and packets in relation to remittances, half pay, pension, bounty, and allowances from the compassionate fund, sent, in the execution of this act, by the officer or clerk to be nominated by the treasurer of the navy for that purpose, and all letters and packets in relation to widows' pensions sent, in the execution of this act, by the officer or clerk to be nominated by the treasurer of the navy for that purpose, shall be free from the duty of postage; and all such letters and packets which shall be forwarded by the said inspector, cashier, officers, and clerks respectively shall be under cover, with the words, 'pursuant to act of parliament of 11th George 4th,' printed on the same; and the said inspector, cashier, officers, and clerks respectively sending the same shall sign their respective names under such words; and if any such inspector, cashier, officer, or clerk, or any other person, shall send or cause to be sent, under any such cover, any letter, paper, or writing, or any inclosure, other than what shall relate to the public business of the several departments of the navy pay office and navy office, every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds."

Sect. 75. "All letters and packets addressed to the commissioners of the navy or to the commissioners for victualling his majesty's navy, relating solely to the business of their respective departments, shall be free from the duty of postage, and that it shall be lawful for the said commissioners of the navy and victualling respectively to authorize and direct certain persons in each of their offices or departments respectively (not exceeding the number of three in time of peace, and six in time of war, in the navy office, and the number of two in time of peace, and four in time of war, in the victualling office, a list of whose names shall be from time to time transmitted by the respective commissioners aforesaid to the secretary of the general post office

in London,) to send letters and packets, relating to the business only of their respective departments, free of postage, all which letters and packets shall be under cover, with the words, 'on his majesty's service,' and 'navy office,' or 'victualling office,' as the case may be, printed on the same; and the said persons so to be authorized as aforesaid shall sign and subscribe their respective names under such words; and all such letters and packets shall be sealed with the seal of the navy and victualling offices respectively; and all the said persons are hereby strictly forbidden so to subscribe and seal any letter or packet, except such only as they shall know to relate solely to the business of their respective offices: and if any such authorized person or any other person shall send, or cause or permit to be sent, under any such cover, any letter, paper, or writing, or any inclosure, other than what shall relate to the public business of their respective departments, every person so offending shall for the first offence forfeit and pay the sum of one hundred pounds, and for the second offence shall be dismissed from his office."

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Sect. 76. "If any letter, paper, or thing whatsoever shall be sent under cover to the commissioners of the navy or to the commissioners for victualling his majesty's navy, the same not being actually upon his majesty's service, and relating solely to the business of their respective offices, the said commissioners respectively are hereby required forthwith to forward the same to the postmaster general, with the covers, in order that the contents thereof may be charged with the duty of postage."

As to letters sent to the commissioners not relating solely to the business of their office.

Sect. 77. "All bills, tickets, certificates, pay lists, orders, and other documents upon which any payment is authorized by this act to be made by the treasurer of the navy, shall be allowed and taken, on the passing of his accounts, as good and sufficient vouchers to him for so much money as shall be therein directed to be paid, and shall have been paid by him thereon."

Tickets, &c. to be good vouchers to the treasurer.

Sect. 78. "All bills to be drawn by the commissioners of the navy or the commissioners for victualling his majesty's navy, or any of them, relating to the public service, or in the execution of this act; all bills to be drawn by any commission, warrant, or petty officer of the navy, or any officer of royal marines, or other person, under the authority of this act, and payable by the treasurer of the navy or by the paymaster of royal marines; all orders, tickets, cheques, certificates, vouchers, and other documents made out in pursuance of this act; all receipts for money paid to the treasurer of the navy on account of the public service; and all receipts for wages, allowances of every kind, pensions, bounty, and half pay or prize money, or in respect of payments made by the treasurer of the navy or by the paymaster of royal marines, or by any collector of customs and excise, in the execution of the provisions of this act or under the authority of the same; shall be and are hereby wholly exempted from all stamp duty whatever."

Exemption from stamps.

Sect. 79. "No agent or other person who shall be employed in the receipt of any wages, pay, prize money, pension, or allowances payable in respect of the services of any officer, seaman, marine, or other person in the royal navy, shall be entitled to take or retain more than sixpence in the pound for receiving and paying over any such wages, prize money, pension, or other allowances, and for all his attendance and trouble in relation thereto, over and above the disbursements in respect of postage and public fees and other charges which such agent shall have necessarily paid: provided always, that in the cases only of the accounts of captains and pursers, and officers acting as captains and pursers, it shall be lawful for such agents to charge in manner following; (that is to say,) the sum of three pounds for every one hundred pounds of the amount of the pay of all captains, and officers acting as captains, and so in proportion for a smaller sum; and the sum of three pounds fifteen shillings for every one hundred pounds of the amount of the pay, allowances, and balance bills of all pursers, or officers acting as pursers, and so in proportion for a smaller sum; which respective allowances shall be deemed a full compensation to such agents, over and above all postages and public fees and allowances which shall have been necessarily disbursed by them; and if any such agent or

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c. 20.To prevent arrest
of seamen, &c.(a).

other person shall directly or indirectly charge, demand, receive, or retain, or permit or suffer to be charged, demanded, received, or retained, any allowance or consideration exceeding the allowance hereby authorized, he shall for every such offence forfeit the sum of fifty pounds." [See this enactment explained and amended by the 2 Wil. IV. c. 40, s. 17, *post*, 426.]

Sect. 80. "And to prevent any unjust or fraudulent arrests of seamen or marines, as well as to prevent credit being improperly given to them while belonging to any ships of his majesty; be it further enacted, that it shall not be lawful for any person to arrest or take out of his majesty's service any petty officer, seaman, non-commissioned officer of marines, or private marine, belonging to any ship of his majesty, by any warrant, process, or writ of execution whatever, to be issued either in the United Kingdom or in any other part of his majesty's dominions, for any debt or alleged debt, unless such debt shall have been contracted by such officer, seaman, or marine at a time when he did not belong to his majesty's service, and unless before the issuing of such process or execution the plaintiff in the suit, or some person on his behalf, shall make affidavit in the court out of which such process or execution shall issue, that the debt justly due and owing to the plaintiff, over and above all costs, was contracted by the defendant at a time when he did not belong to the service of his majesty, a memorandum of which oath shall be marked on the back of such process or execution, and of the warrant issued in pursuance thereof; and if any person be nevertheless arrested contrary hereto, it shall be lawful for the court or any judge of such court, upon complaint made thereof by the party himself or by his superior officer, to examine into the same by the oath of the parties or otherwise, and to make an order for the discharge of every such person so arrested contrary to the intent of this act, and he shall thereupon be discharged out of custody without payment of any fee whatever; and such court or judge shall also award to the party so complaining the costs of such complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy that the plaintiff might have had for his costs in case judgment had been given for him, with costs, against the defendant in the said action."

Act to extend to
the royal marines.

Sect. 81. "All the clauses, provisions, and regulations herein contained shall, so far as the same can be applied, extend to the non-commissioned officers, drummers, and privates of royal marines, in respect of their services on board any of his majesty's ships."

Provision for
seamen left
abroad in distress.

Sect. 82. "And whereas by the said act of the thirty-first year of king George the Second, and the said first-mentioned act of the thirty-second year of king George the Third, hereby repealed, certain provisions were established for the care and maintenance of British seamen who, by shipwreck, capture, or otherwise, might be left in distress in foreign parts; and it is expedient that other provisions should be substituted for the due care and subsistence of seafaring persons thus circumstanced; be it therefore enacted, that the governors, ministers, consuls, and other officers of his majesty in foreign parts, and in places where there shall be no such, then any two British merchants there residing, shall and they are hereby authorized, directed, and required to send for and provide for all such seafaring men and boys, being subjects of the United Kingdom, who shall by shipwreck, or by any other means, or from any cause whatever, be driven to or cast away or left or be in distress at any such foreign parts or places, or who shall have been discharged from any of his majesty's ships, and they and every of them are hereby required to provide for and subsist all such seafaring men and boys, and for so doing they shall be allowed so much per day as hath been or shall be in this respect authorized by the lord high admiral or the commissioners for executing the office of lord high admiral aforesaid, for the amount of which disbursements they shall send bills, toge-

(a) See the 44 Geo. III. c. 13, and *Tidd's Practice*, 9th ed.; 1 *Chitty's Arch. Prac.*, 3rd ed., 90.

ther with proper vouchers, to the commissioners of the navy, in order that, after due examination of such vouchers, payment of the amount thereof may be made to them; and the said governors, ministers, consuls, other officers, and merchants shall cause such men and boys to be put or sent on board the first or any ship or vessel belonging to any subjects of his majesty which shall be bound from thence or from the neighbourhood to any part of the United Kingdom, and shall be in want of men to make up their complement; and if there shall be no such ship in want of men within a convenient time, then they shall provide and order a passage home for such seafaring men and boys in the first ship or vessel of his majesty's subjects bound to any part of the said United Kingdom; and every master or other person having the charge of any such ship or vessel shall and he is hereby required to receive and afford a passage, and subsistence during the voyage, to all such seafaring men and boys as shall be so sent on board his ship, not exceeding four for every one hundred tons of his ship's burthen; and every such master, on the production to the commissioners of the navy of a certificate under the hands of any such governors, ministers, consuls, other officers, or merchants, specifying the number and names of the men and boys and the time when they were so received on board, and upon making oath as to the number of days they were subsisted, and that he did not during that period want of his own complement of men, or if he did want any, then the number he so wanted of his complement, and for what time he shall be entitled to receive from the said commissioners an allowance in respect of the subsistence and passage of each such man and boy (exceeding the number so wanting of his complement), according to such rate per day as in that behalf hath been or shall be authorized by the said lord high admiral or the commissioners for executing the office of lord high admiral aforesaid; and in case any master or other person having charge of any such ship shall neglect or refuse to receive on board his ship, and to subsist and give a passage to, any such seafaring man or boy, in breach of this enactment, every person so offending shall be liable to a penalty of one hundred pounds for each man or boy he shall so neglect or refuse to receive, subsist, or give a passage to, which penalty shall and may be recovered by information at the suit of his majesty's attorney-general in his majesty's Court of King's Bench or Exchequer at Westminster, and that in such information the offence or offences shall and may be alleged to have been committed at Westminster in the county of Middlesex; and the court in which any such information shall be prosecuted shall be and is hereby authorized to issue a commission or commissions for the examination of witnesses abroad, the depositions taken under which shall be received in evidence on the trial of such information."

Sect. 83. "If any person shall forge, or offer, utter, dispose of, or put off, knowing the same to be forged, any ticket, pay list, extract from any ship's books, or any certificate whatever authorized or required by this act, or any inspector's or other cheque, or any letter of attorney, assignment, power, or authority, in order to obtain or to enable any other person to receive any wages, pay, half pay, prize money, bounty money, or other allowance of money due or supposed to be due in respect of the services of any commission, warrant, or petty officer, or seaman, or any commission or non-commissioned officer of marines or marine, or any other person, performed or supposed to be performed in the royal navy; or if any person shall forge, or offer, utter, dispose of, or put off, any purser's or other certificate to a bill of exchange, or any approval of any such bill, respectively required by this act; or if any person shall forge, or utter or put off, knowing the same to be forged, any receipt for wages payable under allotment or otherwise in respect of the services of any person on board any of his majesty's ships, or shall forge the name or handwriting of any officer of the royal navy or royal marines to any receipt for half pay or arrears of half pay, or the name or handwriting of any widow to any receipt for any pension or arrears of pension, or the name or handwriting of any person to any receipt for an allowance from the compassionate fund of the navy; or shall offer, utter, dispose of, or put off any forged

1. *Royal Navy and Marines.*

11 G. 4 & 1 W. 4,
c. 20.

Punishment for
forging ticket, &c.

1. *Royal Navy and Marines.* receipt for half pay or arrears of half pay, or for any widow's pension or arrears of such pension, or for any allowance from the compassionate fund, knowing any such receipt to be forged, with intent in any of the said cases to defraud any person whomsoever; every person so offending shall be deemed guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years."

11 G. 4 & 1 W. 4,
c. 20.

Punishment for
personating any
officer, &c.

Sect. 84. "If any person shall falsely and deceitfully personate any commission, warrant, or petty officer, or seaman, or commission or non-commissioned officer of marines or marine, or the wife, widow, or relation, executor, administrator, or creditor of any such officer, seaman, or marine, or any person entitled to any allowance from the compassionate fund of the navy, in order to receive any wages, pay, half pay, prize money, bounty money, pension, or any part thereof, gratuity or other allowance for money due or payable, or supposed to be due or payable, to any such officer, seaman, or marine, or to the wife or widow, relation, executor, administrator, or creditor of any such deceased officer, seaman, or marine, or any allowance to any person from the said compassionate fund, with intent to defraud any person whomsoever, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years (a)."

(a) Where an indictment on the 57 Geo. III. c. 127, s. 4, charged the prisoner with having wilfully and knowingly personated and falsely assumed the name and character of Peter M'Cann, a person entitled to prize-money, in order to receive such prize-money, with intent to defraud the commissioners and governors of the royal hospital for seamen at Greenwich, and a second count described the said Peter M'Cann as a person "supposed to be entitled," &c. for services, "supposed to have been performed;" and upon the evidence, it appeared by the prize-list and muster-book, that there was a person of the name of *Peter M'Cann*, entitled to prize-money, but no person of the name of *Peter M'Cann*; it was considered by the twelve judges that the variance was fatal. (*R. v. Tannett, Kent Lent Ass.* 1818; 3 *Stark. Evid.* 1578, 56.)

All persons aiding and abetting the personating of seamen are principals; and the offence is not confined to the person only who personates the seaman. (*R. v. Potts, alias Dangreen, R. & C. C.* 353.) The prisoner was tried before *Wood, B.*, at the *Kent Lent Assizes*, 1818, on an indictment on the 57 Geo. III. c. 127, s. 4, containing, amongst others, the two following counts, viz. :—"The first count charged, that *Martha Potts*, late of, &c., single woman, otherwise called *Martha* the wife of *Gustoff Dangreen*, on the 1st of May, 57 Geo. III., with force and arms, at the parish, &c., feloniously, willingly, and knowingly did procure one *John Williams* to personate, and falsely to assume the name and character of

Thomas Jacobs, a person entitled to a certain allowance of money, for services done on board certain ships of our said lord the king, in order to receive such allowance of money, due and payable for and on account of the services of the said *Thomas Jacobs*, as aforesaid; and that the said *John Williams*, by the procurement of the said *Martha Potts*, otherwise called *Martha Dangreen* as aforesaid, and then and there, with force and arms, feloniously, willingly, and knowingly did personate, and falsely assume the name and character of the said *Thomas Jacobs*, a person entitled to a certain allowance of money, for services done on board certain ships of our said lord the king, in order to receive such allowance of money due and payable for and on account of the services of the said *Thomas Jacobs* as aforesaid, with intent to defraud the commissioners and governors of the royal hospital for seamen at Greenwich, in the county of Kent, against the form of the statute, &c., and against the peace, &c.

The thirteenth count charged, that the said *John Williams*, late of, &c., afterwards, to wit, on the said 1st of May, in the year aforesaid, with force and arms, at Greenwich aforesaid, in the county aforesaid, feloniously, willingly, and knowingly did personate and falsely assume the name and character of one *Thomas Jacobs*, a person entitled to a certain allowance of money, for services done on board certain ships of our said lord the king, in order to receive such allowance of money due and payable for and on account of the services of the said *Thomas*

Sect. 85. "If any person shall fraudulently and deceitfully take a false oath, in order to obtain probate of any will or letters of administration of the effects of any deceased commission, warrant, or petty officer, or seaman, or commission or non-commissioned officer of marines or marine; or if any person shall fraudulently receive or demand any wages, pay, prize money, bounty money, pension, or any part thereof, or any allowance of money whatever, payable or supposed to be payable in respect of the services of any such officer, seaman, or marine, or from the compassionate fund of the navy, or any pension to the widow of an officer, upon or by virtue of any probate of a will or letters of administration, knowing such will to be forged, or such probate or letters of administration to have been obtained by means of a false oath, with intent in any of the said cases to defraud any person whomsoever, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years."

Sect. 86. "If any person shall subscribe any false petition or application to the treasurer of his majesty's navy or to the paymaster of royal marines, falsely and deceitfully representing herself or himself therein to be the widow, executor, nearest or one of the nearest of kindred of any deceased commission or warrant officer of the navy, or commission officer of marines, or of any petty officer or seaman, non-commissioned officer of marines or marine, or shall utter or publish any such petition or application, knowing the same to be false, in order to procure, or to enable any other person to procure, a certificate from the said inspector of seamen's wills or from the paymaster of royal marines as hereinbefore respectively provided, thereby to obtain, or to enable any other person to obtain, without probate or letters of administration, payment of any wages, pay, half pay, or pension, or any allowance from the compassionate fund of the navy, or payment of any wages, prize money, or allowances payable in respect of the services of any officer, seaman, or marine in the royal navy, or thereby to obtain, or to

1. *Royal Navy and Marines.*

11 G. 4 & 1 W. 4, c. 20.

Punishment for taking a false oath in order to obtain probate, &c.

Punishment for subscribing false petition.

Jacobs as aforesaid, with intent to defraud the commissioners and governors of the royal hospital for seamen at Greenwich, in the county of Kent; and that the said *Martha Potts*, otherwise called *Martha Dangreen*, then and there, to wit, at the time of committing the felony aforesaid, with force and arms, feloniously, wilfully, and knowingly was present, aiding, abetting, assisting, comforting, and maintaining the said *John Williams* to do and commit the felony aforesaid, in form aforesaid; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said *John Williams* and the said *Martha Potts*, otherwise called *Martha Dangreen*, the felony aforesaid, in manner and form aforesaid, feloniously, willingly, and knowingly did do and commit, against the form of the statute, &c., and against the peace, &c. There being no evidence of previous procurement, the jury acquitted the prisoner on the first count and all the other counts in the indictment except the thirteenth, on which they found the prisoner guilty, she being present and asserting that *John Williams* was *Thomas Jacobs*. The learned judge respited the judgment to take the opinion of the judges upon this count, doubting whether it was a good

one, as the act makes no provision as to aiders, abettors, assisters, comforters, and maintainers, in that part which relates to personating seamen, though, in a subsequent part, as to forging letters of attorney, &c., it provides against those who shall willingly act or assist therein, or, with respect to uttering and publishing, against those who shall aid and assist. The learned judge also doubted whether the doctrine of a principal in the second degree (which seemed to be the idea of this count) could apply to this case; because principals in the second degree, and principals in the first degree, may be charged jointly as doing the act; whereas it appeared to the learned judge difficult to allege that a man and a woman jointly personated *one man*." *J. W.* had been convicted of personating *J.* at a former assizes, and the record of his conviction was produced to prove that fact, on this indictment. The judges unanimously held the conviction right.

A bill drawn on the commissioners of the navy for pay, may be a bill of exchange, and a person may be indicted for the forgery of it as such, although it be not in the form prescribed by the 35 Geo. III. c. 94. (*R. v. Chisholm, R. & Russ. C. C. R. 297.*)

1. *Royal Navy and Marines.*11 G. 4 & 1 W. 4,
c. 20.Punishment for
forging certifi-
cates, &c., or
uttering false
vouchers.As to principals in
the second de-
gree, and acces-
saries.Punishment of
petty officers, &c.
attempting to ob-
tain their pay by
means of false
certificates.False oath or affir-
mation punishable
as perjury.

enable any other person to obtain, probate of the will or letters of administration of the effects of any deceased petty officer, seaman, non-commissioned officer of marines or marine; or if any person shall receive or demand any wages, pay, half pay, prize money, bounty money, pension, or arrears thereof, or any other allowance due or payable in respect of the services of any commission or warrant officer of the navy, or commission officer of royal marines, or of any petty officer, seaman, non-commissioned officer of marines or marine, upon or by virtue of any certificate of the inspector of seamen's wills or paymaster of royal marines respectively as aforesaid, knowing any such certificate to have been obtained by any false representation or pretence; every such offender shall be deemed guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years and not less than seven years, or to be imprisoned for any term not exceeding three years nor less than one year."

Sect. 87. "If any person shall forge, or shall utter, offer, or exhibit, knowing the same to be forged, any paper writing purporting to be an extract from any register of marriage, baptism, or burial, or any certificate of marriage, baptism, or burial, in order to sustain any claim to any wages, prize money, or other monies due or payable in respect of the services of any officer, seaman, or marine in his majesty's navy, or to sustain any claim to any half pay payable to an officer of the royal navy or marines, or to any pension as the widow of an officer, or to any payment or allowance from the compassionate fund of the navy, or to any gratuity or bounty of his majesty given to the relatives of persons slain in fight with the enemy; or if any person shall make any false affidavit, or utter or exhibit any false affidavit, certificate, or other voucher or document, in order fraudulently to procure any person to be admitted a pensioner as the widow of an officer of the royal navy, or in order to sustain any claim to any wages, prize money, or other monies, or to any half pay or pension, or arrears thereof, or any allowance from the compassionate fund of the navy, or to any gratuity or bounty as aforesaid, with intent to defraud any person whomsoever; every person in any of the said cases offending shall be deemed guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years and not less than seven years, or to be imprisoned for any term not exceeding three years nor less than one year."

Sect. 88. "In the case of every offence made felony by this act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any such felony shall, on conviction, be liable to be imprisoned for any term not exceeding two years; and that where any person shall be convicted of any offence punishable under this act for which imprisonment shall or may be awarded, it shall be lawful for the court to sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, as to the court in its discretion shall seem meet."

Sect. 89. "If any petty officer or seaman, non-commissioned officer of marines or marine, shall obtain or attempt to obtain his pay, or any part thereof, upon or by means of any false or forged certificate purporting to be a certificate of service in or discharge from any of his majesty's ships, or from any hospital or sick quarters, every person so offending shall be deemed guilty of a misdemeanor, and, being convicted thereof, shall be liable to such pains and penalties as persons convicted of wilful and corrupt perjury are by law liable to."

Sect. 90. "If any person shall take a false oath or make false affirmation in any case wherein an oath or affirmation is authorized or required by this act to be taken or made, and for which no punishment is otherwise by this act provided, every such person, being thereof duly convicted, shall be liable

to such pains and penalties as persons guilty of wilful and corrupt perjury are by law subject to." 1. *Royal Navy and Marines!*

Sect. 91. "All pecuniary penalties exceeding twenty pounds imposed by this act shall and may be recovered, with full costs of suit in any of his majesty's courts of record at Westminster or Dublin, either by information in the name of his majesty's attorney general, or in the court of session in Scotland by his majesty's advocate, or by action of debt in the name of any person who may sue for the same; and that all penalties not exceeding twenty pounds shall and may be recovered before any justice of the peace in any part of the United Kingdom in the same manner in all respects as is provided by two several acts passed in the third and fifth years of the reign of his present majesty, for the recovery of penalties by summary proceeding before justices of the peace; and that one moiety of all such penalties, when recovered, shall be to the informer, and the other moiety shall be paid over to the treasurer of the navy, for his majesty's use." 11 G. 4 & 1 W. 4, c. 20.
Recovery and application of penalties.

Sect. 92. "And for the more speedy and effectual bringing to justice persons who shall commit any offence against the provisions of this act, be it further enacted, that it shall be lawful for the treasurer and the commissioners of the navy for the time being, or any one of them, and they are hereby respectively authorized and empowered, from time to time, in all places whatever, to execute the office and duty of a justice and justices of the peace in causing any person charged with any of the offences mentioned in this act to be apprehended, committed, and effectually prosecuted for the same; and all constables, headboroughs, keepers of gaols and prisons, and all other officers whatever, shall and they are hereby respectively required from time to time diligently to execute and obey all such warrants as shall be made, directed, or given to them, or any of them, by any one or more of the parties aforesaid, touching any of the matters and things hereinbefore contained; and all the laws made or to be made for the ease, safety, and protection of justices of the peace in the execution of their office, shall extend to the treasurer and commissioners of his majesty's navy respectively acting in the execution of this act, and to all constables and headboroughs or other peace officers or persons acting under the warrant or authority of the said treasurer or commissioners, or any of them, as fully and effectually, to all intents and purposes, as if the same were herein and hereby repeated and re-enacted." Treasurer and commissioners of the navy to act as justices.

Sect. 93. "And in order to avoid doubts as to the construction of certain parts of this act, be it further enacted, that by the term 'ship' is meant and intended every description of vessel employed in his majesty's service whose officers and crew shall be in the pay of the royal navy; and that by the term 'captain' is meant and intended the officer, of whatever rank he may be, who shall be in the command of the ship; and that all months herein mentioned shall be deemed to be calendar months, excepting only in the computation of wages, and of the time for which officers shall be allowed to draw their pay, which shall be cast and computed by the lunar month of twenty-eight days, according to the custom of the navy; and that all persons composing the complement of a ship shall be deemed to be petty officers or seamen, non-commissioned officers of marines or marine respectively, excepting such as shall appear by the muster book to be admirals or flag officers, or commodores, captains, commanders, lieutenants, masters, second masters, pilots, physicians, surgeons, assistant surgeons, chaplains, secretaries to flag officers, and their clerks, pursers, boatswains, gunners, carpenters, and commissioned officers of marines." Definition of terms.

Sect. 94. "The lord high admiral or the commissioners for executing the office of lord high admiral for the time being shall cause measures to be taken for providing the several forms of books, bills, certificates, tickets, and other documents authorized or required by this act; and if any case not herein provided for shall arise, it shall be lawful for the lord high admiral or the said commissioners to make such order thereupon as shall be deemed most conducive to the interests of the public service and of the individuals engaged therein, and for carrying the intentions of this act into effect; and

The admiralty to cause the act to be executed.

1. *Royal Navy and Marines.*

11 G. 4 & 1 W. 4,
c. 20.

they shall also cause an abstract of the provisions and regulations herein contained to be made and printed, and a competent number of copies thereof to be furnished to the treasurer of the navy, principal officers and commissioners of his majesty's navy at home and abroad, to the commissioners of customs and excise in the United Kingdom respectively, to the governors of his majesty's colonies and of the settlements within the charter of the East India company, to his majesty's consuls abroad, to the registrars and deputy registrars of the Prerogative Court of Canterbury, to the governors and agents of naval hospitals and sick quarters, and to the commanding officers of the several divisions of royal marines, who are hereby strictly required to cause the same to be affixed on some conspicuous part of their respective offices, and to promulgate the same in their respective departments; and a competent number of copies of such abstract shall also be supplied to the captains and commanding officers of all his majesty's ships, each of whom is hereby enjoined, so soon as the ship which he shall be appointed to command shall be put into sea pay, to cause one of such abstracts, together with the articles of war, to be hung up in or affixed to the most public place in the ship, and shall cause the same to be constantly kept up and renewed, so that it may be at all times accessible to the whole of the crew, and he shall also cause such abstract to be distinctly and audibly read over once in every month in the presence of the ship's company, immediately after the articles of war are read; and the commissioners of the navy are hereby enjoined to inquire whether such abstract and the said articles of war have been duly hung up and read as directed, and not to grant to any captain or commanding officer his general certificate until they shall be fully satisfied thereof, to the end that every person serving on board his majesty's ships may at one and the same time hear and know the forfeitures and punishment he is liable to for neglect or disobedience, and likewise the advantages and benefits to which he is entitled by a due and faithful performance of his duty, and that if he shall suffer any oppression or injury in his majesty's service, he may be the better enabled to lay his complaint before the lord high admiral or the commissioners for executing the office of lord high admiral of the United Kingdom, who are hereby required, on any complaint made to them, to cause strict inquiry to be made into the circumstances, and if the complaint shall appear to them to be well founded, to grant relief forthwith. [A schedule of fees to proctors, &c. is annexed to the act; but another schedule is substituted in lieu of it by the 2 Wil. IV. c. 40, s. 14, 15, *post*, 425.]

2 Will. 4, c. 40.

By the 2 Wil. IV. c. 40, intituled, "An Act to amend the Laws relating to the Business of the Civil Departments of the Navy, and to make other Regulations for more effectually carrying on the Duties of the said Departments,"—[1st June 1832,]—reciting, "Whereas his majesty, by his royal letters patent under the great seal, bearing date the second day of November one thousand eight hundred and thirty-one, was pleased to constitute and appoint certain persons therein named to be principal officers and commissioners of his majesty's navy, and by other letters patent under the great seal, bearing date the twenty-fifth day of February one thousand eight hundred and thirty-one, was pleased to constitute and appoint certain other persons therein named commissioners for victualling his majesty's navy, and for the care of sick and wounded seamen: and whereas it has been deemed expedient that the number of offices in the civil departments of the navy should be reduced, and to that end that the offices or departments of the principal officers and commissioners of his majesty's navy, and of the commissioners for victualling his majesty's navy, and for the care of sick and wounded seamen, should be abolished: and whereas various duties of the said commissioners being established and regulated by divers acts of parliament, it is requisite that such acts should in some cases be altered, and new provisions made for the due execution of the said duties: be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that

in case his majesty shall be pleased to cancel and revoke the said letters patent by which the said several persons were respectively constituted and appointed principal officers and commissioners of the navy, and commissioners for victualling his majesty's navy, and for the care of sick and wounded seamen, as aforesaid, all the interests, titles, authorities, powers, and duties vested in the said respective commissioners by any act or acts of parliament, and every matter relating to them and their respective offices, shall from and after such revocation be and the same are hereby declared to be transferred to the commissioners for executing the office of lord high admiral of the United Kingdom of Great Britain and Ireland for the time being, and shall be vested in and exercised by them in as full and ample a manner, to all intents and purposes, as if they had been named in the said acts instead of the commissioners of his majesty's navy, and the commissioners for victualling his majesty's navy, and for the care of sick and wounded seamen respectively, subject however to the provisions hereinafter established: provided always, that such transfer shall not be deemed to confer on the said commissioners for executing the office of lord high admiral aforesaid any new office within the meaning of an act passed in the sixth year of the reign of her majesty Queen Anne, intituled 'An Act for the Security of her Majesty's Person and Government, and of the Succession to the Crown of Great Britain in the Protestant Line;' nor shall any such commissioner last mentioned, by taking upon himself, under any new letters patent which his majesty may think fit to cause to be issued, the duties of the offices so abolished, be disqualified from sitting and voting in parliament, or thereby vacate the seat in parliament which any such commissioner may then hold; any thing contained in the said act of Queen Anne, or in any other act, or any usage of parliament, to the contrary notwithstanding; but it is nevertheless hereby declared, that from and after the passing of this act no greater number than five commissioners of the admiralty shall be competent at any one time to sit and vote in the Commons' House of Parliament."

Sect. 2. "From and after the revocation of the said letters patent, all manors, messuages, lands, tenements, hereditaments, erections, buildings, and property whatever, heretofore purchased, taken, held, or in any manner occupied by or in the name of his majesty or his royal progenitors, for the use of the naval or victualling departments, or which by an act of the first and second years of the reign of his late majesty King George the Fourth, intituled 'An Act for vesting all Estates and Property occupied by or for the Naval Service of this Kingdom in the principal Officers and Commissioners of his majesty's Navy, and for granting certain powers to the said principal Officers and Commissioners;' or by an act passed in the same session of parliament, for vesting certain lands and hereditaments at Gillingham in the county of Kent in trustees, to be appropriated to the public service in the department of the navy; or by an act passed in the fifth year of the reign of his said majesty, for enabling the commissioners for victualling his majesty's navy to purchase certain premises for completing a victualling establishment at Cremill Point near Plymouth in the county of Devon, and for supplying the said establishment with water; or by an act passed in the sixth year of the same reign, for enabling the corporation of Pembroke to convey to the commissioners of the navy the right of letting the stalls, sitings, and other conveniences in the market established in the town of Pembroke Dock, and the right to the rents, tolls, and fees thereof; or by an act passed in the same year, for enabling the commissioners of the navy to acquire certain portions of the docks and shore ground at Leith for a naval yard; or which by any other act of parliament, or by any deed or deeds, have been conveyed to or vested in the principal officers and commissioners of the navy, or the commissioners for victualling his majesty's navy, according to their respective estates and interests therein and titles thereto, with their appurtenances, and all rights, capacities, powers, authorities, and duties vested in the said commissioners of the navy and victualling respectively by any of the said acts, shall be and the same are hereby declared

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

In case his majesty shall revoke the appointments of the commissioners of the navy and for victualling, the powers and authorities vested in them by any statutes shall be transferred to the admiralty.

Commissioners of the admiralty not thereby disqualified from sitting in parliament.

Lands, &c. vested in navy and victualling commissioners transferred to the admiralty.

1 & 2 Geo. 4, c. 93.

1 & 2 Geo. 4, c. 107.

5 Geo. 4, c. 49.

6 Geo. 4, c. 36.

6 Geo. 4, c. 103.

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2 Wil. 4, c. 40.

Contracts transferred to admiralty.

Duties of the treasurer of the navy transferred except receipts and payments of money, and the management of Greenwich out-pensions.

Authority to commissioners of the admiralty to administer oaths and execute the duties of justices.

to be transferred to and vested in the commissioners for executing the office of lord high admiral aforesaid for the time being, to be held, enjoyed, and executed by them and their successors in office, in trust for his majesty, his heirs and successors, for the public service; and every clause, covenant, matter, and thing contained in the said acts of parliament and deeds respectively shall extend and be applied to the said last-mentioned commissioners in as full and ample a manner, to all intents and purposes, as if they had been named therein instead of the commissioners of the navy and victualling respectively."

Sect. 3. "From and after the revocation of the said letters patent, all contracts, covenants, and agreements made between the said commissioners of the navy and victualling respectively, or any person on their behalf, and any other person or persons whomsoever, for the supply of any stores, goods, or other things for his majesty's service, or for the performance of any work, or on any other account in anywise relating to the naval and victualling departments respectively, or in which the said commissioners are in any manner interested or concerned, shall in like manner be transferred to and vested in the commissioners for executing the office of lord high admiral aforesaid for the time being, and shall be executed and enforced by them in the same manner as if they had been named therein."

Sect. 4. "And whereas by an act passed in the eleventh year of the reign of his late majesty king George the Fourth, for amending and consolidating the laws relating to the pay of the royal navy, divers provisions and regulations are established in relation to various duties of the treasurer of the navy and his officers; and it is deemed expedient that such duties should be transferred from the said treasurer, and that other provisions and regulations should be established in lieu thereof; be it therefore enacted, that from and after the commencement of this act, as hereinafter mentioned, all authorities, powers, duties, matters, and things which by the said recited act or by any other act or acts of parliament are conferred upon or vested in the said treasurer, save and except as to the receipt and payment of money, and also except as to the management of Greenwich out-pensions, shall be exercised and performed by or under the immediate directions of the commissioners for executing the office of lord high admiral, in as full and ample a manner as the said treasurer is by any of the said acts empowered to exercise and perform the same; and that all wills, powers of attorney, vouchers, and other documents, and all accounts, prize and other lists, returns, notifications, reports, petitions, certificates, documents, and papers, which by the said last-recited act or by any other act of parliament are required to be addressed, transmitted, or made to the said treasurer, except as aforesaid, shall be addressed, transmitted, and made to the secretary of the admiralty, in order that the commissioners for executing the office of lord high admiral aforesaid may cause the necessary steps to be taken thereon, in conformity with the intentions of the said several acts, or otherwise, as by this act is provided."

Sect. 5. "From and after the passing of this act it shall be lawful for the commissioners for executing the office of lord high admiral aforesaid for the time being, or any one or more of them, and they and each of them are and is hereby empowered, to administer an oath or oaths in any cases touching or concerning his majesty's naval monies, stores, victuals, or provisions, or the accounts thereof, or in any other matter relating to his majesty's naval service, and also from time to time, in all places whatever, to execute the office and authority of a justice of the peace in as full and ample a manner as any commissioners of the navy or victualling are by any act of parliament now in force, or any justice under any commission is authorized to execute the same; and all keepers of gaols, and all constables and other peace officers, are hereby respectively required from time to time diligently to execute and obey all such warrants as shall be lawfully made, directed, or given to them or any of them by any one or more of the said commissioners for executing the office of lord high admiral aforesaid; and all the laws made or to be made for the ease, safety, and protection of justices of the

peace in the execution of their office shall extend to the said last-mentioned commissioners, and to all constables and other peace officers and persons acting under the warrant or authority of any such commissioners, as fully and effectually to all intents and purposes as if they were herein enacted." 1. *Royal Navy and Marines.*
2 Wil. 4, c. 40.

Sect. 6. "And whereas an act was passed in the third year of the reign of his late majesty king George the Fourth, for enabling two or more commissioners for executing the office of lord high admiral, when the number of such commissioners is less than six, to do certain acts theretofore done by three or more of the same commissioners: and whereas, considering the additional duty to be performed by the said commissioners, in consequence of the abolition of the said offices as aforesaid, it is expedient to authorize the execution of any of their duties by two commissioners only, even when such commissioners shall be six or more in number; be it further enacted, that from and after the passing of this act the said last-recited act shall be and the same is hereby repealed, and that from thenceforth it shall be lawful for any two or more commissioners for executing the office of lord high admiral aforesaid, and they are hereby empowered, to exercise and execute all powers, authorities, and duties, and to perform and do all acts, matters, and things appertaining to their office, which by any act or acts of parliament are authorized or required to be executed or done by three or more of them, or by the commissioners of the navy and victualling respectively; and all such authorities, duties, matters, and things executed and performed by two or more of the said commissioners of the admiralty shall be valid and effectual to all intents and purposes." Two commis-
sioners of the ad-
miralty autho-
rized to execute
all powers.

Sect. 7. "In all deeds, conveyances, leases, contracts, and other instruments touching any estate, property, matter, or thing relating to the naval service, or to any department under the controul of the commissioners for executing the office of lord high admiral aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally by the style and title of 'The Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland,' without expressing their names; and that all such deeds, conveyances, leases, contracts, and other instruments wherein the said commissioners shall be so described, and the execution thereof by any two of them, shall be as valid and effectual to all intents and purposes as if they or any of them had been expressly named therein." Their style and
title.

Sect. 8. "All bills for payment of money, all allotment bills, and all remittance bills heretofore made out or signed by the commissioners of the navy or victualling, or any of them, or by the treasurer of the navy, except bills for Greenwich out-pensions, or by the paymaster of marines, or any of their clerks respectively, shall, from and after the commencement of this act, as herein-after mentioned, be made out and signed by an officer to be called the accountant general of the navy, or by an officer to be for that purpose appointed by the commissioners for executing the office of lord high admiral aforesaid, and shall be in such form, and countersigned and approved in such manner, as the said last-mentioned commissioners shall from time to time order or establish; and that all bills to be drawn by officers of the navy or by any other persons under the authority of an act made in the eleventh year of the reign of his late majesty king George the Fourth, for consolidating the laws relating to the pay of the navy, which bills shall in future be made payable at three days' instead of (as provided by the said act) at ten days' sight, and all other bills which have heretofore been usually drawn upon the commissioners of the navy and victualling respectively, shall be drawn upon the said accountant general, and shall be accepted by him or by such other officer as aforesaid, and such acceptance shall be countersigned and approved in manner aforesaid; and all the several bills, so countersigned and approved as aforesaid, shall, when paid by the treasurer of the navy, be deemed good and sufficient vouchers for such payment on the passing of his accounts." As to the drawing
and acceptance of
bills for naval
payments.

Sect. 9. "From and after the revocation of the said letters patent all applications, communications, and notices, and all prize and other lists and Notices and com-
munications to be

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

made to the admiralty.

Certificates,

Superintendents to do the duties hitherto executed by commissioners at the yards.

Superintendents empowered to administer oaths and act as justices.

Inspectors' duty with regard to claims under certain sums.

accounts, and all bills, tickets, books, documents, and papers, which by any act of parliament are required to be made, given, or transmitted to the commissioners of the navy or victualling, shall be made, given, and transmitted to the secretary of the admiralty, in order that the commissioners for executing the office of lord high admiral aforesaid may thereupon cause the necessary measures to be taken for carrying into effect the intentions of the said acts; and that all certificates, tickets, vouchers, and other documents heretofore by any act or acts authorized to be given or made out by the commissioners of the navy or victualling shall be made and given by the secretary of the admiralty, or by such other person as shall for that purpose be directed by the said commissioners for executing the office of lord high admiral aforesaid."

Sect. 10. "And whereas it is deemed expedient that the duties hitherto performed by commissioners at the several dock yards and other naval and victualling establishments at home and abroad shall in future be executed by officers to be called superintendents; be it therefore further enacted, that from and after the revocation of the said letters patent such superintendents from time to time to be appointed shall have full power and authority to do, execute, and perform all and every the duties, matters, and things which by any act or acts of parliament now in force any commissioner of the navy or victualling resident at any naval or victualling yard or establishment, or at any naval hospital, at home or abroad, is authorized or required to do: provided always, that in the absence of such superintendent his duty as to the signing of bills, certificates, and vouchers, and in other respects in which the acts of a commissioner have been required, may be executed by the officer next in seniority to him, such officer noticing, after his signature, the fact of the superintendent's absence."

Sect. 11. "The superintendents so to be appointed shall have and they are hereby invested with full power and authority to administer oaths, and to exercise the duties, powers, and authorities of justices of the peace, in all places whatever, and in all matters relating to his majesty's naval service, and to the stores, provisions, ammunition, and the accounts thereof, and in all other cases whatever in which any commissioner of the navy or victualling is empowered to act as a justice by any act or acts now in force, in as full a manner to all intents and purposes as if such superintendents had been named in any such act or acts, or in any commission of the peace for any such places; and that all the laws made and to be made for the ease, safety, and protection of justices of the peace in the execution of their office shall extend to such superintendents, and to all constables and other peace officers and persons acting under the warrant or authority of any such superintendent, as fully and effectually as any such laws can be deemed to extend to any justice or justices of the peace, and to the persons acting under them."

Sect. 12. "And whereas by the said act of the eleventh year of king George the Fourth, for consolidating the laws relating to the pay of the navy, provision is made for the payment, without probate or administration, in cases of sums not exceeding thirty-two pounds payable on account of pay, half pay, or pension of deceased officers of the navy and marines, and of pensions of deceased widows of officers, and on account of allowances from the compassionate fund: and whereas by reason of the abolition of the office of paymaster of marines, and of the transfer of part of the duties of the treasurer of the navy, it is become necessary to make further provision in such cases, and also in the cases of sums not exceeding twenty pounds due to any deceased persons on account of any prize money, and for the services of deceased non-commissioned officers and marines; be it therefore further enacted, that from and after the passing of this act the investigation of all claims to the effects of any such deceased persons shall be made by the inspector of seamen's wills, in the manner required by the said recited act in cases of similar claims to pay for services in the royal navy; and the said inspector, after duly investigating the claim, and the amount of the deceased's assets, is hereby authorized in any such cases to issue a check

or certificate, as is required by the said act with respect to naval pay; and that all payments not exceeding in the whole thirty-two pounds of pay, half pay, pension, or allowances of deceased officers of the navy and marines, and of widows' pensions, and of allowances from the compassionate fund, and all payments not exceeding in the whole twenty pounds of monies due to any deceased person on account of prize money, and for the services of deceased non-commissioned officers, drummers, and privates of marines, to be made under any such certificate, shall be as effectual and legal as if the same had been made under any probate of a will or letters of administration: provided always, that in order to allow time for the production of any will which may have been made by any such deceased person, and to guard against fraud, no check or certificate whatever shall be granted in lieu of letters of administration, under this or the said recited act, until three calendar months shall have elapsed from the time of notice being given to the inspector of the death of the person whose effects are claimed."

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

Sect. 13. "And for the better investigation of claims to the effects of deceased persons under this or the said recited act, be it further enacted, that from and after the passing of this act the said inspector shall have full power and authority to administer an oath or affirmation to any claimants touching their claims, either as the representatives or the creditors of the deceased, and to the witnesses to be adduced in support of any such claims; and that the certificate of the allowance of the claim shall be in such form as the commissioners for executing the office of lord high admiral shall authorize."

Inspector may administer oaths.

Sect. 14. "And whereas by the said act of the eleventh year of king George the Fourth, provision is made for limiting the expense of obtaining probates of wills and letters of administration to the effects of deceased officers, seamen, and marines, and it is expedient that the schedule of fees to be allowed in such cases should, on account of inaccuracies therein, be altered; be it therefore further enacted, that from and after the passing of this act the several sums set forth in the table of fees contained in the schedule annexed to this act, and which shall be deemed as part hereof, shall be allowed and taken, in the cases respectively therein mentioned, in lieu of those specified in the schedule of the said recited act; and if any registrar, proctor, or other person shall demand or receive more than the several sums respectively allowed by the schedule annexed to this act, every person so offending shall forfeit the sum of fifty pounds, which shall be recoverable, with costs of suit, and applicable in the same manner as is provided by the said recited act with respect to pecuniary penalties exceeding twenty pounds: provided nevertheless, that if any increase or diminution shall take place in the stamp duties payable in respect of any such probates or letters of administration, or of any instrument connected therewith, the sums to be allowed shall be increased or diminished to the extent of the alteration in such stamp duties; and provided also, that in cases of extraordinary trouble or expense such additional allowance shall be made as shall appear reasonable to the commissioners for executing the office of lord high admiral aforesaid." [See *ante*, 420.]

Fees on probates, &c. contained in the schedule to this act to be taken in lieu of those specified in 11 Geo. 4, c. 20.

Sect. 15. "And inasmuch as a strict adherence to the letter of such inaccurate schedule would have produced a burden upon the relations of deceased seamen not intended by the said recited act, be it further enacted, that all registrars, proctors, and others who may, under the authority of the treasurer of the navy or his officers, have been allowed or have received more or other than the sums set forth in the said inaccurate schedule, shall be and are hereby indemnified and released from all penalties and forfeitures which under the said recited act they may have incurred on any such account."

Proctors and others indemnified for receiving greater fees than allowed by act 11 Geo. 4, c. 20.

Sect. 16. "And whereas by the said recited act of the eleventh year of his late majesty provision is made for the payment of naval half pay and pensions by a mode called an extract, upon notice to be given to the clerk of the treasurer of the navy by the person desiring to be so paid, and pro-

Mode of payment of half pay, &c. provided by 11 Geo. 4, c. 20

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.
extended to marine half pay and pensions, and to officers' widows, being insane.

Agents' commission.

Monthly payments in ships not having pursers to be made by the clerk instead of the commanding officer.

Licensing of navy agents.

vision is also made for the payment of the pensions of officers and others becoming insane to the persons having the care and maintenance of them, and it is expedient to extend the said provisions; be it therefore further enacted, that from and after the passing of this act such mode of payment by extract shall, if required by the parties, be adopted with respect to marine half pay and pensions, and that the notice shall be given to the superintendent of the dock yard at which the party shall be desirous to be so paid; and that in all cases of widows of naval and marine officers entitled to any pension becoming or being insane, or otherwise from their state of mind incompetent to the management of their affairs, it shall be lawful for the treasurer of the navy, under the authority of the commissioners for executing the office of lord high admiral, to pay over to the relative or other person having the care and maintenance of any such widow, such pension, or such portion thereof as the said commissioners shall think fit, to be applied to the maintenance and support of such insane or incompetent person; and every such payment shall be deemed valid, and an effectual discharge to the said treasurer for so much as shall be so paid." [See *ante*, 401.]

Sect. 17. "And whereas by the said recited act agents employed in the receipt of wages in respect of services in the royal navy are prohibited from taking more than sixpence in the pound for receiving and paying over the same, and for all their trouble in relation thereto: and whereas certain officers are permitted to receive part and others the whole of their pay by drawing bills for the same, although it is required of them to pass documents and accounts annually or on quitting their ships, so that no pay may be received by the agent, out of which he can deduct the allowance of sixpence in the pound, or be in any manner compensated for his trouble in transacting the business of the officer in his absence, or for passing his accounts, and it is therefore necessary to explain and amend the said act in this respect; be it therefore further enacted and declared, that such prohibition shall not be deemed to extend to prevent any agent from charging or receiving from any commission or warrant officer (save and except in the cases of passing accounts, for which especial provision is made in the said act,) such reasonable compensation as such agent may be fairly entitled to charge, or as may be agreed upon between them, for any trouble or pains of such agent in transacting for any such commission or warrant officer any business or affairs not relating to the receipt of pay, prize money, or other allowances." [See *ante*, 414.]

Sect. 18. "And whereas by the said recited act it is enacted, in cases of monthly payments of pay to the seamen of the navy, in the absence of the purser, or in ships not having a purser, the commanding officer shall act and be deemed to be the purser for all the purposes of such payments: and whereas it is found expedient that in certain ships not having pursers the duty of purser shall be performed by the clerk of the ship instead of the commanding officer; be it therefore enacted, that from and after the passing of this act, in all such cases as aforesaid, the payment shall and may be made by the clerk so appointed to do the duty of purser, in the presence of the commanding officer and of another commissioned officer, if there be one belonging to the ship, and if not, then in the presence of the commanding officer and the person acting as master or one of the mates of the ship, entitled to draw bills, which officers shall attest the lists as required by the said act." [See *ante*, 390.]

Sect. 19. "And whereas by three several acts of parliament relating to the receipt of naval prize money, passed in the fifty-seventh and fifty-ninth years of his late majesty king George the Third, and in the first year of his late majesty king George the Fourth, certain provisions are established with regard to the licensing, by the treasurer of the navy, of agents to receive the pay and prize money of petty officers, seamen, and marines; be it further enacted, that all such licences to agents, and to the representatives of deceased agents, as by the said several acts or by any other act are authorized to be granted by the treasurer of the navy, shall, from and after the commencement of this act, as hereinafter mentioned, be granted by an officer

to be for that purpose appointed by the commissioners for executing the office of lord high admiral, which commissioners shall have full power and authority, from time to time as they shall see requisite, to revoke such licences, in case of neglect in any such licensed agent duly to account for and pay over all monies received by him, or of any deceitful, fraudulent, or dishonest conduct practised by any such agent towards any person or persons on whose behalf he shall have been employed, or towards any person claiming through or under them; and that all such licensed agents shall from time to time give such notice in writing to the secretary of the admiralty, of their change of abode, as by the said act of the fifty-ninth year of king George the Third is required to be given to the treasurer of the navy: provided always, that every such agent so to be licensed shall enter into bond with sureties to his majesty, as required by the said act of the first year of his majesty king George the Fourth, in such form as to the said commissioners shall appear requisite."

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

Sect. 20. "And whereas an act was passed in the tenth year of the reign of his late majesty king George the Fourth, for transferring the management of Greenwich out-pensions, and certain duties in matters of prize, to the treasurer of the navy; and it is expedient that such management and duties, so far as regards matters of prize only, should be placed under the care of the commissioners for executing the office of lord high admiral aforesaid; be it therefore further enacted, that from and after the commencement of this act, as hereinafter mentioned, the several duties in matters of prize, and all the powers and authorities relating thereto respectively, which by the said last-recited act were vested in the treasurer of the navy, shall be and the same are hereby transferred to and vested in the commissioners for executing the office of lord high admiral aforesaid; reserving always to the said treasurer the duty of making all payments and receiving all monies as by the same act is directed and provided in that behalf."

Duties in matters of prize transferred to admiralty, except as to payments and receipts.

Sect. 21. "So much of the said last-mentioned act as relates to the form of remittance bills shall be and the same is hereby repealed; and that from henceforth remittance bills for Greenwich out-pensions, and the certificate and receipt to be required on payment thereof, shall be in such form as the treasurer of the navy for the time being shall from time to time authorize and direct; and that remittance bills for prize money, of which the management is by this act intended to be transferred to the said commissioners for executing the office of lord high admiral, shall, from and after such transfer, be made in the same manner and subject to the same regulations in all respects as are provided with regard to payments relating to naval and marine pay and pensions, or in such other manner and form as the said commissioners shall from time to time authorize and direct; and in case of such payments being made upon remittance bills by any officer of the revenue, repayment thereof shall be made to the respective departments of the revenue in the manner provided by the said recited act of the eleventh year of king George the Fourth with respect to other remittance bills, an account of which bills shall be forwarded, if for out-pensions to the treasurer of the navy, and if for prize, to the admiralty office, in order that such account may be examined by the proper officer of the respective departments, and, if found correct, that measures may be taken for causing repayment to be made by the said treasurer to the respective departments of the revenue accordingly; and in all cases of remittance bills for prizes made out and not paid, owing to the death of the party, or other cause, such bills shall be returned to the admiralty office to be cancelled."

Remittance bills.

Sect. 22. "All monies which previously to the transfer of the management of out-pensions and duties in matters of prize to the treasurer of the navy, by the said recited act of the tenth year of king George the Fourth, were, under any other act or acts of parliament, made payable to the treasurer of Greenwich Hospital, or for the benefit of that establishment, on account of undistributed prize or bounty money, or of unclaimed or forfeited shares of such monies, or on any other account, which are now outstanding in the

Outstanding prize money deemed public money.

1. *Royal Navy and Marines.* hands of any agent or agents, or which have not been paid over by such agent or agents, or which may hereafter arise or be payable, shall be deemed to be public monies owing to his majesty, and shall and may be sued for and recovered in the same manner as any other debts due to his majesty may by law be recovered."

2 Wil. 4, c. 40.

Recited act of
10 Geo. 4, c. 26,
as to naval six-
pences, explained.

Sect. 23. "And whereas by the said act of the tenth year of his late majesty king George the Fourth it is enacted, that the allowance of sixpence per month, commonly called naval sixpences, payable out of the wages of all seamen and others who shall serve or be employed in any of his majesty's ships or vessels, shall cease to be payable to Greenwich Hospital: and whereas the said enactment was intended to extend and take effect with respect to the wages of the crews of his majesty's ships and vessels of war in commission only, and it is expedient that the crews of his majesty's ships and vessels employed in the various other departments of the public service should contribute towards the support of the said hospital as they had done before the passing of the said act; be it therefore enacted and declared, that from and after the passing of this act the said allowance of sixpence per month shall be abated out of the wages thenceforth to grow due to every person serving in or belonging to any ship or vessel not being in commission and in the pay of the royal navy, which shall belong to or be employed in the service of his majesty in the several departments of the public service, in like manner as the same abatement was made before the passing of the said act, and shall be deducted and collected by the heads or principal officers of the several departments, and shall be paid over to the commissioners of the said hospital, for the better support thereof, under such regulations as by the commissioners for executing the office of lord high admiral aforesaid shall from time to time be made for that purpose."

Mode of soliciting
monies for naval
services.

1 Wil. 4, c. 42.

Sect. 24. "And whereas by an act passed in the first year of his present majesty's reign, intituled 'An Act to consolidate and amend the several Acts relating to the office of Treasurer of his Majesty's Navy,' various regulations are established for the government of the commissioners of the navy and victualling respectively, and of the treasurer of the navy, in regard to the soliciting of monies wanted for the service of the navy, and to the accounts, custody, and disposal of such monies; and it is necessary to alter the same regulations, and to make further provision in regard to the same; be it further enacted, that from and after the revocation of the said letters patent all monies wanted for the service of the navy shall be solicited by the commissioners for executing the office of lord high admiral aforesaid, and shall be for naval services generally, and that in the letter soliciting the same the said commissioners shall specify the general balance of public monies remaining in the treasurer's hands; and that one account only of the monies issued from the exchequer to the governor and company of the Bank of England shall be raised in the books of the said governor and company, and shall be entitled generally for naval services, a corresponding account with which shall be kept by the said treasurer; and upon receipt of all such monies from the exchequer the said treasurer shall certify the amount to the said commissioners: provided always, that no monies paid into the Bank of England on account of the treasurer of the navy, or for naval services, shall be paid thereout, except upon drafts for naval services, to be drawn by the treasurer or one of his cashiers, upon several accounts to be raised in the Bank books by the treasurer, or the person duly authorized by him, in the joint names of the said treasurer, and of his respective cashiers; and provided also, that nothing in the said recited act or in this act contained shall be deemed to extend to prohibit the said treasurer (by himself or by the person authorized by him) from raising sub-accounts, in the names of the treasurer and any of his cashiers, in the books of the said governor and company, as has for the safety and convenience of the public service been heretofore the practice, so that no monies are paid out of the Bank except upon drafts as herein is directed."

One general ac-
count to be raised
at the Bank.

Sub-accounts may
be raised at the
Bank.

Making up and
certifying of an-

Sect. 25. "From and after the passing of this act the annual accounts required by the said last recited act to be made up by the treasurer of the

navy shall be an account of naval services generally, and shall commence on the first day of April and end on the thirty-first day of March in every year; and after the same shall have been duly examined in the office of and certified and approved by two of the commissioners for executing the office of lord high admiral shall be transmitted by the said commissioners to the commissioners for auditing the public accounts, as is provided by the said recited act."

Sect. 26. "The treasurer's accounts for the first three months of the present year shall be made up to the thirty-first day of March, and shall be examined and passed in the manner directed by the said recited act of the first year of his present majesty."

Sect. 27. "The monthly accounts required by the said act to be made up at the dock yards shall, from and after the revocation of the said letters patent, be signed by the pay clerk, and shall be certified by the superintendent of the yard, or in his absence by the officer next in seniority to him, and shall then be transmitted in duplicate to the said treasurer and to the secretary of the admiralty respectively."

Sect. 28. "The annual inspection of public monies required by the same act to be made, shall in future be made on the first day of April in each year, or that day being Sunday, on the following day, in the manner thereby directed, by the superintendent at the dock yard, and by one of the commissioners of the admiralty at the navy pay office; and the amounts thereof respectively shall be certified to the commissioners for executing the said office of lord high admiral, who shall within three months next after the first day of April in each year cause to be made out, and transmit to the commissioners for auditing the public accounts, certificates of the amounts of the balances thereupon found; and upon the death, resignation, or removal of any treasurer of the navy, a similar inspection of the public monies remaining in charge of his several cashiers and clerks shall be made so soon after as conveniently may be, and at farthest within seven days afterwards; and the amounts of the respective balances found shall be in like manner thereupon certified to the said commissioners for executing the office of lord high admiral, and certificates thereof shall be by them, within the like period of seven days, transmitted to the commissioners for auditing the public accounts, for the purpose mentioned in the said recited act."

Sect. 29. "From and after the passing of this act all allotment and remittance bills, and all other bills for payment of money mentioned in or authorized by this act or the said recited act of the eleventh year of king George the Fourth, to be made out or drawn, and all discharges for the same, and all receipts or discharges to be given to the treasurer of the navy, or any of his officers, in respect of any naval or marine pay, pension or prize money, or in respect of payments under ten pounds on account of any civil pension or allowance charged on the ordinary estimate of the navy, or of any monies heretofore paid by the paymaster of royal marines, and which are now payable by the said treasurer, shall be wholly freed and exempt from stamp duties."

Sect. 30. "The commissioners for executing the office of lord high admiral shall, after the expiration of the present year, cause to be made up, on or before the thirtieth day of November in each succeeding year, an account, to be signed and attested by the accountant general of the navy, of the naval receipt and expenditure of the year ending on the thirty-first day of March preceding, distinguishing the expenditure under the several heads of naval service, as expressed in the Appropriation Act or Acts for that year; and the account, when so made up and attested, shall be compared with the vouchers by the commissioners for auditing the public accounts, who are hereby required, on or before the thirty-first day of January following, if parliament be then sitting, and if not, then within one week after parliament shall be assembled, to lay before the House of Commons a copy of the said account, certifying thereon as to the correctness of the said account as compared with the vouchers, and noting under each head whether the expenditure has exceeded or fallen short of the sums voted by parliament for the naval service

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

Annual accounts of naval services.

Accounts for the first three months of the present year.

Monthly accounts from yards.

Annual inspection of monies.

Bills, &c. exempt from stamp duty.

Admiralty to make up an annual account of expenditure, under the heads of service specified in the Appropriation Acts; commissioners of audit to examine the same, and a copy thereof to be by them laid before parliament.

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

Proviso for objections.

Certificates heretofore received as vouchers to be so received at the audit office.

Punishment for forging certificates, and for false oaths.

Punishment for sending false petitions to obtain the inspector's certificate.

Rewards payable on the discovery of offences relating to naval stores reduced(a).

of that year for which the account is so made up: provided always, that in case any objections shall have arisen in the audit office to such yearly account, and the same remain unanswered or not satisfactorily answered, the said account, made up in as perfect a manner as may be, shall nevertheless be laid before the House of Commons as before directed, and shall be accompanied by a statement of the said objections; and that the account of the following year shall also be accompanied by a statement referring to such objections, and showing whether they still remain, or have been, and how, explained or removed: provided also, that nothing herein contained shall be construed to vest in the board of audit any discretion as to the allowance or disallowance of any item of expenditure in support of which the usual and regular vouchers shall have been produced to and allowed by the commissioners for executing the office of lord high admiral."

Sect. 31. "And whereas by the uniform practice of the navy, the several payments hereinafter specified have been vouched by the attestation of witnesses to such payments only, without requiring from the party receiving the same any acquittance for the amount so paid, and certificates of the amounts of such payments so attested have been received as vouchers in proof thereof; be it therefore enacted, that certificates founded upon the books of his majesty's ships, and extracts therefrom, and of the ordinary at each port, the books of each dock and victualling yard, the half pay lists, the lists of savings of provisions, the list of Greenwich out-pensions, the pay lists of naval hospitals, and the account containing the payments of chaplains' bounty, shall, when duly attested by the several officers or other persons whose duty it shall be to attend and attest such payments, be received by the said commissioners of audit as sufficient vouchers in proof of the several payments in such certificates respectively charged, conformably with the practice which has hitherto prevailed."

Sect. 32. "If any person shall forge or falsely make any certificate to be given under the authority of this act by the commissioners for executing the office of lord high admiral, or any of them, or by any superintendent, of the purchase or sale of any naval or victualling stores, or shall utter or publish any false or altered certificate of any such purchase or sale, knowing the same to be false; or if any person shall take a false oath, or make a false affirmation, or give false evidence before any commissioner or commissioners for executing the office of lord high admiral aforesaid, or before any superintendent or inspector of seamen's wills, touching any matter which the said commissioners or any of them, or any superintendent or inspector, are or is authorized to inquire into; every such person, being duly convicted of any such offence or offences, shall be liable to suffer such punishment, pains, and penalties as persons guilty of wilful and corrupt perjury are by law subject to."

Sect. 33. "The petition for probate of will or letters of administration of the effects of any deceased petty officer or seaman, or non-commissioned officer of marines or marine, or for obtaining a check or certificate in lieu of probate or letters of administration, in cases of claims where the deceased's assets shall not exceed thirty-two pounds and twenty pounds respectively, shall be addressed to the inspector of seamen's wills, and shall be forwarded to the secretary of the admiralty; and if any person shall subscribe, transmit, utter, or publish any false petition, or application to the said inspector, knowing the same to be false, in order to obtain or to enable any other person to obtain any check or certificate in lieu of probate or letters of administration as aforesaid, every person so offending shall be deemed guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years nor less than one year."

Sect. 34. "And whereas by an act of the thirty-ninth and fortieth years of his late majesty king George the Third, for the better preventing the

(a) See post, "*Stores.*"

embezzlement of his majesty's naval, ordnance, and victualling stores, certain rewards of twenty pounds and five pounds are directed to be paid in the respective cases therein mentioned, for the discovery of offences relating to such stores, and it is expedient that the amount of the said rewards should be reduced; be it therefore further enacted, that upon convictions of persons for any offence touching his majesty's naval, ordnance, or victualling stores, to be discovered after the passing of this act, the payment of rewards shall be in the discretion of the commissioners for executing the office of lord high admiral aforesaid, or of the master general and principal officers of the ordnance, as the case may be; and that instead of the rewards of twenty pounds and five pounds respectively payable under the said act, the rewards following shall be paid; (that is to say,) any sum not exceeding ten pounds upon convictions in prosecutions by indictment, and not exceeding fifty shillings upon summary convictions in the respective cases mentioned in the said act; and that no reward shall be payable in cases where the fine inflicted on the offender shall amount to twenty pounds, unless such fine shall fail to be paid as provided in the said act; and that it shall be lawful to mitigate the pecuniary penalty of ten pounds, in cases of summary convictions, to any sum not less than forty shillings."

Sect. 35. "From and after the commencement of this act, as herein-after mentioned, an act made in the first year of the reign of his majesty king George the First, to prevent disturbances by seamen and others, and to preserve the stores belonging to his majesty's navy royal, and for other purposes therein mentioned (save and except so much thereof as continues two several acts made in the eleventh year of king William the Third and the fifth year of queen Anne); and an act made in the first year of the reign of his late majesty king George the Fourth, to authorize the paymasters of royal marines to issue pay not exceeding a certain sum to the representatives of deceased officers and private men, without probate or administration; and also an act made in the eighth year of the reign of his said late majesty king George the Fourth, for more conveniently paying the widows of officers of the royal marines; and also an act made in the tenth year of the reign of his said majesty to facilitate the public business in certain cases in the navy and victualling departments; and also so much of an act made in the eleventh year of his said late majesty, to amend and consolidate the laws relating to the pay of the royal navy, as relates to the paymaster of royal marines; and so much of the same act as empowers petty officers, seamen, non-commissioned officers, and marines to make orders in writing upon the treasurer of the navy, for payment of wages not exceeding ten pounds, and as authorizes the inspector of seamen's wills to send and receive letters and packets free from the duty of postage, shall be and the same are hereby repealed: provided always, that nothing in this act contained shall extend or be construed to deprive the treasurer of the navy of the privilege of sending and receiving letters and packets free of the duty of postage."

1. *Royal Navy and Marines.*

2 Wil. 4, c. 40.

Repeal of acts
1 Geo. 1, st. 2, c. 25;
1 Geo. 4, c. 91;
7 & 8 Geo. 4, c. 8;
10 Geo. 4, c. 15;
and part of 11
Geo. 4, c. 20.

Proviso for treasurer of the navy.

Commencement of act.

Act may be altered.

Sect. 36. "This act shall, in the several cases not hereby otherwise provided, commence and take effect on and from the seventh day after the passing of this act; and that the same may be altered, varied, or amended by any other act or acts to be passed during this session of parliament." [See the schedule to this act, *post*.]

By the 4 & 5 Wil. IV. c. 25, intituled "An Act to alter and extend the Provisions of an Act passed in the Eleventh Year of the Reign of His late Majesty King George the Fourth, for amending and consolidating the Laws relating to the Pay of the Royal Navy," — [25th July, 1834], — reciting, "Whereas by the 11 Geo. IV. c. 20, certain petty officers, under the circumstances therein mentioned amongst others, are empowered to receive their pay by drawing bills for the same at the periods therein respectively provided: and whereas it is expedient that such privilege should be extended to the several petty officers and

4 & 5 Will. 4, c. 25.

1. *Royal Navy and Marines.*

4 & 5 Wil. 4, c. 25.

The authority to draw bills for pay extended to certain inferior classes in the navy;

but not to be allowed to persons having made allotments or being in the receipt of monthly pay.

Certain officers who formerly could draw for only three fourths authorized to draw for their whole pay.

Bills to be drawn for such periods as shall be fixed by the admiralty.

Certain warrant and petty officers entitled to two months' advance of pay on the fitting-out of a ship.

Allotments may be made in favour of brothers and other relatives.

other persons herein-after mentioned belonging to his majesty's ships:" it is enacted "that from and after the thirtieth day of September, one thousand eight hundred and thirty-four, it shall be lawful for every mate, midshipman, and master's assistant, although any such person shall not have passed his examination, and also for every volunteer of the first class, and for every engineer and assistant engineer belonging to any steam vessel of his majesty, at the end of every six or twelve months, but not for a shorter period than six months, to draw bills periodically upon the accountant general of the navy for the net personal pay which shall then be due to any such person, but nevertheless under such regulations, limitations, and restrictions as shall from time to time be established for that purpose by the commissioners for executing the office of lord high admiral of the United Kingdom for the time being: provided always, that no person authorized to make any allotment of his wages, or entitled to receive monthly pay, under the provisions of the said recited act, shall be allowed to draw any such bill as aforesaid for any period during which any such allotment shall be in force or in the course of payment, or during which he shall be in the receipt of such monthly pay." [See the 11 Geo. IV. & 1 Wil. IV. c. 20, s. 24, *ante*, 395.]

Sect. 2. "And whereas by the said recited act certain officers therein mentioned, who have not accounts to pass, are authorized to draw bills quarterly for the balance of their personal pay, and certain other officers are thereby authorized to draw bills only for three fourths of their pay: and whereas it is expedient to extend the authority to draw for the whole of their pay to the several officers hereinafter mentioned; be it therefore further enacted, that from and after the thirtieth day of September one thousand eight hundred and thirty-four it shall be lawful for every captain, commander, lieutenant, or master commanding a ship, surgeon, purser, and assistant surgeon acting as surgeon, in the several cases to be approved by the said commissioners for executing the office of lord high admiral aforesaid for the time being, and under such regulations, limitations, and restrictions as the said commissioners shall from time to time establish, to draw a bill upon the accountant general of the navy periodically for the net personal pay which shall be then due to any such officer: provided always, that all bills for personal pay to be drawn under the authority either of the said recited act or this act shall, from and after the commencement of this act, be drawn for such periods of time and up to such periodical days in the year as the said commissioners for executing the office of lord high admiral aforesaid shall from time to time fix and establish for that purpose." [See *ante*, 396.]

Sect. 3. "And whereas by the said recited act an advance of two months' pay is authorized to be made to volunteer seamen and landmen on the first fitting-out of the ship in which they shall be appointed to serve: and whereas it is expedient to extend that benefit to the several persons herein-after mentioned; be it further enacted, that from and after the thirtieth day of September one thousand eight hundred and thirty-four, mates, boatswains, gunners, carpenters, second masters, and petty officers shall be entitled to receive a similar advance of two months' personal sea pay at such times, in the same manner, and under the same regulations, as volunteer seamen and landmen are allowed to receive the same." [See *ante*, 389.]

Sect. 4. "And whereas by the said recited act the persons in whose favour allotments of pay are authorized to be made are limited to certain relatives of the party making the allotment as therein mentioned, and it is expedient to extend the said act in this respect; be it therefore further enacted, that from and after the thirtieth day of September one thousand eight hundred and thirty-four the party entitled to make any allotment of his pay shall be at liberty to make the same to or in favour of the following other relatives and persons; (that is to say,) a brother, sister, grandfather, grandmother, mother-in-law, and child or children of the age of eighteen years or upwards, and to a trustee or trustees for the support of any child or children under that age." [See *ante*, 397.]

Sect. 5. "In all cases whatever of allotment to be made, either under the said recited act or this act, it shall be lawful for the said commissioners for executing the office of lord high admiral aforesaid from time to time to establish and fix the amount of pay to be allotted, not exceeding in any case one moiety of the monthly wages of the party making the allotment."

Sect. 6. "Whenever any person who shall have made an allotment of his wages under this or the said recited act shall be found to be in debt to the public on the ship's books or otherwise, it shall be lawful for the said commissioners for executing the office of lord high admiral to cause payment under such allotment to be stopped until such person shall have been cleared of the debt owing by him."

Sect. 7. "And whereas by the said recited act petty officers, seamen, and non-commissioned officers of marines and private marines, who shall not have made any allotment of their pay, are empowered to remit the whole or any part of the pay due to them (except for the last six months) to the respective relatives therein mentioned: and whereas it is expedient to extend the said act in respect to such remittances; be it therefore further enacted, that from and after the thirtieth day of September one thousand eight hundred and thirty-four it shall be lawful for any petty officer, seaman, non-commissioned officer of marines, or marine, notwithstanding he may have made an allotment of his pay, to cause to be paid by remittance in the manner thereby provided any further portion of his pay which may remain due to him, except for the last six months, and that any such remittance of wages may be made payable either to any of the relatives mentioned in the said recited act, or to any child or children of the age of eighteen years or upwards of the party making the allotment, or if under that age then to a trustee on the behalf of such child or children; or any such petty officer, seaman, non-commissioned officer of marines, or marine, may, if he shall think fit, authorize any such part of his pay to be invested for his benefit in such savings' bank and under and subject to such rules and regulations as the said commissioners for executing the office of lord high admiral aforesaid shall from time to time fix and establish for that purpose, consistently with the safety and convenience of the public service, and the benefit of the party desiring the investment to be made." [See *ante*, 399.]

Sect. 8. "And whereas by the said recited act, in order to avoid the expense which the relatives of deceased officers, seamen, and others may otherwise be put to in obtaining payment of small sums due to such deceased persons, provision is made for the payment thereof without probate or letters of administration in the several cases therein mentioned, under a certificate or check to be issued by the inspector of seamen's wills, which officer by an act passed in the second year of the reign of his present majesty, for amending the laws relating to the civil departments of the navy, is also empowered to issue a similar certificate or check in other cases as therein mentioned: and whereas it is expedient to extend the said provision to cases not provided for by either of the said acts, and to consolidate the law upon this subject; be it further enacted, that from and after the thirtieth day of September one thousand eight hundred and thirty-four, in the case of the death of any commissioned, warrant, or petty officer, seaman, commissioned or non-commissioned officer of royal marines, or private marine, or of any widow entitled to a pension on the establishment of the navy, or of any person entitled to an allowance from the compassionate fund, or of any person having been employed in any of his majesty's dock yards, naval, victualling, or medical establishments, or in any of the civil departments of the navy, or of any person entitled to any prize money, bounty, grant, or other money in the nature of naval prize, and respectively leaving assets to be administered which shall not in the whole exceed the sum of thirty-two pounds, it shall be lawful for the inspector of seamen's wills in the admiralty office, after having satisfied himself by due investigation of the right of any claimant to probate of the will if the deceased shall have left a will, or, in case of intestacy, to letters of administration, and also on due proof,

1. *Royal Navy and Marines.*

4 & 5 Wil. 4, c. 25.

Amount of allotment to be fixed by the admiralty.

Allotments may be stopped when there is any debt until it is cleared.

Remittance of wages extended.

Inspector's duty as to monies due to deceased persons extended.

1. *Royal Navy and Marines.* to the satisfaction of the inspector, that the assets of the deceased to be administered do not in the whole exceed the sum of thirty-two pounds, to issue a certificate to that effect and in admission of the claim, which certificate shall be in such form as by the commissioners for executing the office of lord high admiral aforesaid shall be deemed expedient, and so far as regards any monies payable in the naval department, and not exceeding thirty-two pounds, shall have the same force and effect as a probate of the deceased's will, or a grant of administration of the deceased's effects, could or might have; and that payment to be made under the authority of such certificate of any monies not exceeding the said sum of thirty-two pounds, due to the deceased on account of any naval pay or wages, or pay or wages of the ordinary, or any marine pay, or of any half pay, pension, or prize, or bounty, grant, or other money in the nature of prize, or of any allowance from the compassionate fund, or monies due on account of the deceased's services, or superannuation allowances granted on retirement from any services in any of his majesty's dock yards, naval, victualling, or medical establishments, or in any of the civil departments of the navy, or any department under the direction of the said commissioners, shall be valid and conclusive against all parties as effectually as if the same had been paid under probate or letters of administration, and shall be allowed to the treasurer of the navy in his accounts."

4 & 5 Wil. 4, c. 25.

5 & 6 Wil. 4, c. 24.

Naval service limited to five years.

If ship abroad, seamen, on expiration of their service, to be sent home by earliest opportunity.

Admiral, in case of emergency, may detain them six months longer, with one fourth increase of pay.

Seamen under arrest for trial not to be discharged until after trial, &c.;

to perform their duties, and to be amenable to naval

By the 5 & 6 Wil. IV. c. 24, intituled "An Act for the Encouragement of the voluntary Enlistment of Seamen, and to make Regulations for more effectually managing his Majesty's Navy," [21st August, 1835,] after reciting, "whereas it is expedient to limit the duration of the service of seamen in his majesty's navy, and to increase the inducements to seafaring men voluntarily to enter into the same;" it is enacted, "that no person shall be liable to be detained against his consent in the naval service of his majesty for a longer period than five years, to be computed from the day of his being entered into the same, unless he shall have voluntarily entered for a longer term, and except as hereinafter provided; and that at the expiration of such period of continuous service he shall, upon his application for that purpose, be entitled to be discharged; and if the ship on board which he shall be serving be in any port of the United Kingdom he shall be forthwith discharged; and in cases of men serving on board ships absent from the United Kingdom, the lord high admiral, or the commissioners for executing the office of lord high admiral, shall cause the necessary orders and instructions to be given to all admirals and other officers in command of his majesty's ships, that about the time when the period of their respective services shall expire every person entitled to his discharge, on signifying to his captain or commanding officer his wish no longer to continue in the service, shall be discharged forthwith, if he desire it, or shall be sent by the earliest convenient opportunity in some ship of his majesty to some port of the United Kingdom, to be there discharged: provided always nevertheless, that if the admiral or commanding officer of the fleet or squadron under whose command he shall be shall, in consequence of any special emergency, deem it hazardous to the public service forthwith to discharge him, then such admiral or commanding officer shall have power to detain him in the service for a further period of six calendar months, or until such emergency shall have ceased; and in every such case the person so detained shall be entitled to receive for such extra service one fourth in addition to the pay of his rating: provided also, that if any seaman shall be under lawful arrest at the period at which he shall be so entitled to his discharge, then such discharge shall not take place until such arrest shall have ceased, or, in case he shall have been put under arrest in order to be brought to trial for any offence, until he shall have been tried for such offence, and have undergone the punishment to which he may be adjudged for the same by sentence of court-martial: and provided further, that nothing in this act contained shall be construed to exempt any person so entitled to his discharge from the performance of the duties of his

station until he shall have been actually discharged; and that every such person, so long as he shall be in the service, shall be amenable and subject to the discipline of the navy, and to the several provisions of the laws in being relating to the government of his majesty's ships, vessels, and forces by sea."

Sect. 2. "Every such seaman who may have served the said term of five years, whilst any proclamation of his majesty calling for the services of seafaring men shall have been in force, shall, upon being discharged from the navy, be entitled to receive from the captain or commanding officer of the ship from which he shall be so discharged a certificate of his service therein, containing a description of his age, person, and place of birth, upon the production at the admiralty office of which and of similar certificates as to his service in any other of his majesty's ships in which he may have served during such period of five years, (all which certificates the captains of such ships are hereby required to give him on his discharge from the same respectively,) and upon a comparison of the dates and particulars to be expressed in such certificates with the muster books of the several ships in which he shall have served, provided the particulars shall be found correct and the certificates be found genuine, a protection from service in the navy for the space of two years shall be issued to every such seaman gratis, under the hands of two or more of the commissioners for executing the office of lord high admiral and the seal of the office of admiralty, in such form as the said commissioners shall think fit: provided always, that if any such seaman shall be discharged, except upon his own application, before the term of his service shall amount to five years as aforesaid, a protection shall be granted to him for the space of one year only."

Sect. 3. "And in order to prevent as far as may be frauds and impositions with respect to protections, be it further enacted, that if any person shall forge or counterfeit any certificate of service in his majesty's navy, or any instrument purporting to be a protection from such service, or shall fraudulently utter or publish any forged certificate of such service, or any forged instrument purporting to be a protection from such service, knowing the same to be forged, or shall fraudulently alter any certificate or protection which shall have been duly granted or issued; or if any person shall forge or fraudulently alter any extract from a baptismal register, or shall knowingly utter any false or fraudulently altered extract from a baptismal register, or any false affidavit, certificate, or other document, in order to obtain from the admiralty office a protection from his majesty's naval service for himself or any other person; or if any person, being in the possession of a protection, shall lend, sell, or dispose thereof to any other person, in order fraudulently to enable such other person to make an unlawful use of the same; or if any person shall produce, utter, or make use of as a protection for himself any protection which shall have been made out or issued for any other individual; every person in any such manner offending shall be deemed guilty of a misdemeanor, and such protection shall thenceforward be null and void."

Sect. 4. "And for the encouragement of seamen and others to enter into his majesty's naval service, be it further enacted, that every seaman, seafaring man, or other person who within six days after any proclamation of his majesty calling for the services of seafaring men shall have been published in any port of the United Kingdom or of any of his majesty's dominions, shall at such port enter himself in his majesty's naval service with any officer authorized to receive volunteers for the royal navy, shall, in addition to the advantages given to volunteers by an act of the eleventh year of his late majesty king George the Fourth, to amend and consolidate the laws relating to the pay of the royal navy, be entitled to receive double the amount (according to his rating) of the bounty offered by any such proclamation; and that in the cases of seaman serving in merchant vessels which shall be at sea at the time when any such proclamation shall be issued, every such person who shall enter himself with an officer of the navy within six days after the first arrival of any such ship at any such port as

1. *Royal Navy and Marines.*

5 & 6 Wil. 4, c. 24.

discipline until discharged.

Discharged seamen to receive certificates, on which protections are to be issued to them.

Punishment for forging certificates, &c.

Bounties to volunteers.

11 Geo. 4, c. 20.

1. *Royal Navy aforesaid, or within half an hour after any officer of his majesty's navy shall have visited any such ship before her arrival at any such port, shall also be entitled to receive the like double bounty.* [See the 11 Geo. IV. 5 & 6 Wil. 4, c. 24. 1 Wil. IV. c. 20, s. 2, *ante*, 389.]

Seamen in service at time of issuing a proclamation calling for services of seafaring men to continue, and be paid the usual bounty.

Sect. 5. "The seamen who shall at the time of the issuing of any such proclamation as aforesaid be serving in the fleet shall not be entitled to be discharged, but shall continue to serve therein for a period of five years, in case their services shall be so long required; and in consideration of their being so required to continue in the service for such further period they shall be entitled to receive and shall be paid the same amount of bounty as shall by any order in council or proclamation of his majesty then in force be offered to seamen of their respective classes, and shall also be entitled to their discharge at the expiration of that period, in the same manner and under regulations similar to those established by this act with respect to volunteer seamen."

Seamen after five years' service, agreeing to continue, to be entitled to a fresh bounty.

Sect. 6. "And as an encouragement to seamen to continue in the naval service, be it further enacted, that every seaman belonging to the fleet whose period of five years' service shall expire during the time when any such proclamation as aforesaid shall be in force, and who previous to the expiration of such service shall signify to his commanding officer his desire to continue therein for a further period of five years, and shall be allowed to re-enter accordingly, shall upon such re-entry be entitled to be paid the single bounty offered by his majesty's proclamation to volunteers of his class and rating; and every such volunteer shall at the expiration of such second period of five years be entitled to his discharge, under and subject to the like regulations as are hereinbefore provided with respect to persons entitled to their discharge after five years' service."

Pensioners volunteering to receive their pensions in addition to their pay.

Sect. 7. "Whenever any seaman in the receipt of a pension for wounds or prior services, and being able-bodied, and fit for the naval service, shall, when any such proclamation as aforesaid shall be in force, voluntarily enlist, and shall be received to serve in the navy, he shall, in addition to the pay and other advantages to which he may be entitled, be allowed to receive such pension during the time he shall continue in such further service and in the faithful discharge of his duty."

Provisions in favour of volunteers extended to colonial seamen, who on their discharge shall be sent to their homes.

Sect. 8. "All the provisions contained in this act in favour of volunteers shall be extended to the seamen belonging to the British colonies who shall freely enter themselves to serve in the navy; and that all such colonial seamen, after being discharged at the expiration of five years' service, in case they shall be desirous to return to their native colony, shall either be conveyed thither free of expense, or be allowed a gratuity in money sufficient to cover the cost of their return thereto, as the commissioners for executing the office of lord high admiral shall think fit."

Act not to diminish the authority of the admiralty in the discharge of seamen.

Sect. 9. "Provided always, that nothing in this act contained shall extend to control or diminish the authority vested in the lord high admiral and the commissioners for executing the office of lord high admiral to discharge, as he or they shall think fit, or to authorize the discharge of any seaman from his majesty's naval service; and that if any seaman shall be desirous of being discharged from the naval service before the expiration of the period of five years for which he shall be engaged or shall be bound to serve, and shall provide one able seaman or two able-bodied landmen to serve in his stead for a period of five years (if their services shall be so long required), every such seaman shall, upon the approval of such substitutes by the proper officer of the admiralty, and upon their being actually received into the service on board any one of his majesty's ships of war, be forthwith discharged from the navy, and shall be entitled to the same protection as if he had completed a period of five years' service."

Seamen may obtain their discharge on providing substitutes.

Sect. 10. "This act may be altered, amended, or repealed by any other act or acts to be passed during the present session of parliament."

Act may be amended this session.

II. Seamen in Merchant Service.

The recent statute of 5 & 6 Wil. IV. c. 19, has consolidated the various Merchant's service. prior statutes on the subject of merchant seamen, and enacted several new provisions. Amongst these will be found that of empowering justices of the peace to adjudge summarily upon claims for wages of merchant seamen not exceeding twenty pounds, which claims were formerly enforceable only by action in the superior courts or suit in the admiralty court. By the thirty-eighth section, also, a remedy before two justices of the peace is given in case of assault and battery on board a merchant ship, and new provisions are made as to the apprenticeship of youths to the merchant service. The act also establishes a register of all the British merchant seamen of the United Kingdom, and contains a variety of other new and important provisions for the encouragement and protection of this useful class of persons.

The recent statute of 4 & 5 Wil. IV. c. 52, also contains some important provisions relative to the support and relief of these persons and their widows and children, in case of their death.

The 4 & 5 Wil. IV. c. 34, repeals the laws relating to the contribution out of merchant seamen's wages to the support of Greenwich Hospital.

We will proceed to set forth the enactments of these statutes, accompanying them with notes and observations.

By the 4 & 5 Wil. IV. c. 52, intituled "An Act to amend an Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service; and for other purposes," [13th August, 1834,] after reciting, "whereas by the 20 Geo. II. c. 38, a body corporate and politic was created by the name of 'The President and Governors for Relief and Support of sick, maimed, and disabled Seamen, and of the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service,' and divers powers and privileges were thereby granted to the said corporation, and regulations made for the management thereof; and various provisions were by the said act made for the relief and support of maimed and disabled seamen, and the widows and children of such as shall be killed, slain, or drowned as aforesaid: and whereas the 37 Geo. III. c. 73, was passed: and whereas it is expedient to repeal some, and to extend and comprise in one act of parliament others of the provisions of the said two recited acts;" it is enacted, that from and after the thirty-first day of December one thousand eight hundred and thirty-four, from which day (except as hereinafter is expressly provided) this act shall commence and take effect, the whole of the said recited act of the twentieth year of the reign of his said late majesty king George the Second, except so far as the same relates to the incorporation and perpetual succession of the said body corporate and politic, or to the powers and authorities thereby vested in the said president and governors for receiving, possessing, and applying such sums of money as should be contributed, devised, or bequeathed to it, and for purchasing and holding lands and erecting an hospital, or to the rules and method thereby provided for supplying the places of the president and assistants or committees and governors or members thereof so often as vacancies shall occur, and making and altering the bye laws, constitutions, and ordinances of the said corporation; and so much of the said recited act of the thirty-seventh year of the reign of his said late majesty king George the Third as relates to the payment and appropriation to and for the uses and purposes therein mentioned of the wages of deceased seamen and other persons engaged in British merchant ships trading to the West Indies, and to the penalties and forfeitures thereby imposed, so far as the same are payable or recoverable on account of any infraction of the provi-

4 & 5 Wil. 4, c. 52.

37 Geo. 3, c. 73.

Repeal of certain parts of recited acts.

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

Proviso as to offences committed or penalties incurred.

President and governors empowered to relieve disabled seamen and their widows and children.

Seamen to produce certificate of the hurt they have received.

Parties signing the certificate to make oath of the truth thereof.

Certificates to be produced by seamen disabled by sickness, and by widows and children of seamen.

sions of the said act respecting the payment and appropriation of such wages as aforesaid; be and the same are hereby declared to be repealed: provided always, that all offences which shall have been committed, and all penalties and forfeitures which shall have been incurred, and all payments and duties to which any party shall have become liable, previous to the commencement of this act, against the provisions of the said acts, shall and may be punishable and recoverable under the said acts as if the same had not been repealed, although such payments and duties shall not in consequence of such liability have become actually receivable by the said president and governors until after the said thirty-first day of December."

Sect. 2. "The said president and governors and their successors shall and may and they are hereby authorized and empowered to provide, in such their hospital as aforesaid, for the reception of such seamen as shall be rendered incapable of present or future service by sickness, wounds, or other accidental misfortunes, and those who shall become decrepit or worn out by age, or shall provide for such seamen by allowing them certain pensions, or otherwise as to the said president and governors and their successors shall seem meet and most for the advantage of the said charity; and also to relieve the widows and children of such seamen as shall be killed, slain, or drowned in the said service; and also to relieve the widows and children of such seamen as shall die after having contributed during a term of twenty-one years to the funds of this corporation, provided such children are not of the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and are proper objects of charity; and also to relieve the widows and children (such children being proper objects of charity as aforesaid) of such seamen as at the time of their death shall have been receiving or have been entitled to receive pensions, under and by virtue of this act, from the fund hereby to be created, as decrepit or worn-out seamen: provided that no widow shall be entitled to any benefit under this act who shall not have been the wife of such seaman or pensioner before he became entitled to relief under the provisions of this act: provided nevertheless, that no seaman in the said service shall be entitled to any of the provisions or benefits of this act, on account of any hurt or damage he may have received on board any ship or vessel, unless he shall produce or cause to be produced a certificate to the said president, assistants, and committees, of the hurt or damage he hath received, from the master, mate, boatswain, and surgeon, or so many of them as were in the ship or vessel to which such seaman belonged at the time of his receiving such hurt or damage, or of the master and two of the seamen if there be no other officer, or in case the master shall die, or be killed or drowned, then of the person who shall take upon him the care of the ship or vessel, and two of the seamen on board the same, under their hands and seals, thereby signifying how and in what manner such seaman received such hurt or damage, whether in fighting, defending, working, loading, or unloading the said ship or vessel, where and when he entered, and how long he had served on board the same; and the parties so signing and sealing such certificate shall and are hereby required to make oath of the truth of the contents thereof before some one of his majesty's justices of the peace, if given in Great Britain or Ireland or other his majesty's dominions, or the chief officer of the customs of the port or place where there is no justice of the peace, or before the British consul or resident in any foreign country where such certificate is executed (who are hereby respectively authorized and required to administer the same without fee or reward); and in case of sickness, whereby such seaman shall be rendered incapable of service, a certificate signed, sealed, and authenticated in like manner, signifying that he was healthy when he entered on board such ship or vessel, and that such sickness was contracted on board the same, or on shore in doing his duty in the service of the ship, and not otherwise, and expressing the time and place he entered on board such ship or vessel, and how long he had served therein; and that no widow, child, or children of any seaman killed, slain, or drowned

in the said service, shall be relieved or entitled to any allowance by virtue of this act unless she or they, or some person on her or their behalf, shall produce a certificate, signed, sealed, and authenticated in like manner, signifying how and in what manner such seaman lost his life in the service of the said ship or vessel, the time and place he entered on board, and how long he had served therein; and that no widow, child, or children of any seaman in the said service shall be entitled to any relief by virtue of this act unless she or they shall produce or cause to be produced a certificate under the hands and seals of the minister and churchwardens and overseers of the poor of the parish, township, or place, or any two of them, or under the hands and seals of the minister and overseers of the poor of the parish, township, or place, or any two of them, where there are no churchwardens, or if in Scotland by the minister and elders, or if in Ireland by a justice of the peace for the parish, township, or place where such widow, child, or children shall at the time reside, and if such widow, child, or children are some of the people called Quakers, then by any two reputable persons of that persuasion of the parish, township, or place where such widow, child, or children have a legal settlement, or do inhabit and reside, to be attested by two or more credible witnesses, that such widow was the lawful wife and real widow, and that such child or children was or were the lawful child or children of such deceased seaman as aforesaid, and that such child or children is and are under the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and is or are proper objects of charity; and that no seaman shall be provided for by a pension or otherwise, as decrepit or worn out, unless such seaman shall have served in the merchant service for the space of five years, and shall have during that time contributed and paid the monthly duty out of his wages, in and by the act of the twentieth year of the reign of king George the Second hereinbefore recited, or in and by this act, required to be henceforward paid and deducted as the case may happen, for the uses and purposes in and by this act provided."

Sect. 3. "If any person shall forge, counterfeit, erase, or alter, or shall procure to be forged, counterfeited, erased, or altered, or shall unfairly or unduly obtain, any certificate in order to entitle him or her to any of the pensions, allowances, or benefits of this act, and shall produce or cause such certificate to be produced for that purpose, such certificate shall, upon discovery thereof, be null and void, and such person so applying for relief or provision shall be for ever incapable of receiving any of the benefits of this act, and shall be subject and liable to the like punishment as an incorrigible rogue is subject and liable to, and shall be punished accordingly as such."

Sect. 4. "The said president, with any five or more of the said assistants or committees for the time being, shall make a full court of assistants or committees, and shall meet from time to time upon Wednesdays weekly in or near the city of London, or at such other time or place as they shall think fit to appoint; and such court shall have power, when assembled as aforesaid, in the name of the said corporation and on their account, to apply the monies arising and to be received by virtue of this act, or otherwise belonging to and vested in the said corporation, for the relief and support of such seamen, their widows and children, as are hereinbefore described, and in case there shall be any surplus thereof, or any sum or sums of money shall be contributed and given for the purpose of this act by any well-disposed persons, to lay out the same in parliamentary securities, or to dispose of the same in the purchase of such lands, tenements, or hereditaments as are allowed to be purchased and held by the said corporation by the said recited act of the twentieth year of the reign of his said late majesty George the Second, and with and under their common seal to enter into any covenants or contracts for the purposes aforesaid, as they shall think fit for the better promoting and carrying into effect the provisions of this act; and to appoint and choose, and at their pleasure to remove, displace, and supply, any officers, servants, and other person and persons to be employed for the purposes herein mentioned and intended, or other the affairs of the said corpo-

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4 & 5 Wil. 4, c. 52.

Decrepit seamen not entitled to the benefit of this act unless they have served five years, and contributed monthly.

Persons forging, &c. certificates to be punished.

President and five assistants to make a court, who are to meet weekly.

Court may apply the monies of the corporation, and appoint the officers and their salaries;

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4 & 5 Wil. 4, c. 52.

Exception;
and do all other
matters and
things necessary.

All masters and
owners of mer-
chant ships or
vessels, &c. to
pay 2s. per month.

ration (other than and except such officers and persons as by the said act of the twentieth year of the reign of his said late majesty king George the Second are directed to be chosen and appointed at a general court or assembly of the said corporation), and to direct and appoint such salaries, perquisites, and other rewards for their labour and service therein as they shall approve and think proper, and to do, manage, transact, and determine all such matters and things as to them or the greater part of them shall appear necessary and convenient for the effecting and carrying on the purposes hereby intended."

Sect. 5. "For effecting the ends and purposes aforesaid, that every master of any merchant ship or vessel belonging or to belong to any of the subjects of his majesty, his heirs or successors, and every owner being a British subject navigating or working his own ship or vessel, whether the said ship or vessel shall be employed on the high sea, or coasts of Great Britain or Ireland, or in any port, bay, or creek of the same, shall, from and after the thirty-first day of December, one thousand eight hundred and thirty-four, pay, and there shall be allowed and paid by every such master or owner, two shillings per month of lawful money of Great Britain, and proportionably for a lesser time, during the time he or they shall be employed in or navigate or work such merchant ship or vessel, for the uses and purposes aforesaid: provided always, that such masters or owners of such ships or vessels, or their widows and children under fourteen years of age, or being objects of charity as aforesaid, shall have and be entitled to have a proportionate increase of the pension or other allowance, as in and by this act is provided, according to the difference between the amount of the monthly duty hereby required to be paid by other seamen, mariners, and pilots, in case such master or owner shall have paid the said sum of two shillings per month for a period of five years or sixty months before any application to the said president and governors for relief under this act or the provisions thereof, or any of them; but in case any such master or owner shall be killed or drowned, or become decrepit and maimed or disabled, before he or they shall have paid such increased rate of two shillings per month for the full period of five years or sixty months as aforesaid, then such masters or owners, or their widows and children, shall have and be entitled to have and receive such smaller pension or allowance as the said president and governors, or the trustees to be appointed as hereinafter mentioned shall think fit."

All seamen or
other persons
serving on board
such ships or
vessels to pay 1s.
per month.

Sect. 6. "Every seaman or other person whatsoever who shall serve or be employed by any person or persons whatsoever in any merchant ship, or other private ship or vessel, belonging or to belong to any of the subjects of his majesty, his heirs or successors, whether the said ship or vessel shall be employed on the high sea or coasts of Great Britain or Ireland, or in any port, bay, or creek of the same, and every pilot employed on board any such ship or vessel, shall, from and after the thirty-first day of December, one thousand eight hundred and thirty-four, pay, and there shall be allowed and paid by every such seaman, pilot, or other person employed or that shall be employed, one shilling per month of lawful money of Great Britain, and proportionably for a lesser time, during the time he or they shall be employed in or belong to the said ship or vessel, for the use and purposes aforesaid: provided always, that this act shall not extend or be construed to extend to any person or persons who shall be employed in any boat upon any of the coasts of Great Britain or Ireland, or the islands of Guernsey, Jersey, Alderney, Sark, and Man, in taking fish, nor to any person or persons employed in boats or vessels that trade only from place to place within any river of Great Britain or Ireland."

Masters of ships
to keep in their
hands 1s. per
month out of sea-
men's pay, and pay
over same to re-
ceiver of the
duties.

Sect. 7. "The master, owner, or commander of every such merchant or private ship or vessel is hereby empowered and required to deduct and detain out of the wages, shares, or other profits payable or accruing to such seaman or other person employed on board such ship or vessel (other than such persons as are hereby excepted), the said monthly duty, and shall pay the same, together with the amount of the duty due and owing from himself to such officer or officers as shall on that behalf be appointed by the said

president and governors, or the trustees to be appointed at any of the out-ports in manner hereinafter provided, and their successors, for the collecting, recovering, and receiving the said duty of one shilling per month, if such seaman or other person shall have or be entitled to any such wages, shares, or profits."

Sect. 8. "It shall and may be lawful for the said president and governors, and their successors, at a full court of assistants or committees, to appoint such person or persons as they shall think fit to be receiver or receivers of the said duties of two shillings and one shilling per month at the port of London, and also depute and appoint the collectors or other officers of the customs of his majesty, his heirs and successors, in the several out-ports of Great Britain and Ireland, with the concurrence of the commissioners of the said customs, or such other persons as they shall think fit, to collect and receive the same (except in such out-ports and where separate trustees shall have been appointed by virtue of this act); which said receivers, as also the collectors and officers of the customs, are hereby empowered and required to collect, receive, and pay over the said duties according to such instructions and directions as shall be from time to time sent to them in writing by the said president and governors and their successors; and for the care and pains therein of the said collectors and other officers of the customs to be appointed to collect, recover, and receive the said duty, it shall and may be lawful for the said president and governors and their successors, at such court of assistants or committees as aforesaid, to make such allowance to them out of the said duties as they shall judge reasonable, so that the same do not exceed the sum of five pounds per centum on the gross amount thereof."

Sect. 9. "Every master, commander, or owner of any merchant ship or other private ship or vessel navigating the same, or such other person as shall have the care thereof, shall keep a book by way of muster roll or account of the ship's company, signed by himself, in which shall be entered his own christian and surname, and the christian and surnames of all the officers, seamen, and other persons employed in such ship or vessel, and over against each name the age, place of birth, and quality of such seaman or other person, and the time and place when he entered into the service of such ship or vessel; and such master, commander, or owner, or other person having the care of such ship or vessel shall continue to keep such book by way of muster roll during the whole course of the voyage, and shall from time to time enter therein when and where any such master, officer, seaman, or other person shall be discharged from or shall leave or desert such ship or vessel, and when and where any other officers and men shall be shipped on board, describing them in like manner as the persons who first entered on board are directed to be described, and when and where any of them received any hurt or damage, or were killed, slain, or drowned, or otherwise happened to die, in case there should be any such, together with a statement of the amount of wages due to them at the time of death or desertion, and of what clothes or other effects such deceased man shall have left on board; which said account shall be in the form, and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (A.) and to this act annexed; a duplicate of which account shall, if required, be signed by the said master, commander, or other person having the care of the ship or vessel as aforesaid, and shall be delivered to the collectors or receivers of the said duties so appointed as aforesaid, at whatever port in Great Britain or Ireland any such ship or vessel shall report or discharge her cargo; and every such duplicates for vessels not belonging to such port of discharge shall be forwarded by such receiver to the said president and governors, to be by them transmitted to the trustees of the port to which the vessel shall belong; and in case any such master, commander, or other person shall neglect to keep such muster roll or account, or

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4 & 5 Wil. 4, c. 52.

Receivers to be appointed for port of London and outports, who are to collect and pay over the duties according to instructions.

Masters to keep muster roll, and deliver duplicates thereof to the collectors (a).

Receivers to transmit duplicates of vessels not belonging to their port.

(a) See the 5 & 6 Wil. IV. c. 19, s. 21, *post*, 460.

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

Masters of vessels to deduct penalties from wages of seamen, and deliver a verified account thereof to officers of president and governors.

Collectors may summon masters of vessels, and examine them upon oath as to the truth of the muster rolls.

Masters refusing to appear or to answer, to forfeit 10*l*.

Secretaries, &c. of public offices to give in a list of ships employed in their service.

shall neglect or refuse to deliver such duplicate as aforesaid, and in case such receivers or collectors shall neglect or refuse to transmit the duplicates which shall be delivered to them as aforesaid to the said president and governors, every such person so offending shall forfeit and pay for every such refusal or omission the sum of five pounds of lawful money of Great Britain."

Sect. 10. "The master for the time being of every ship coming within the provisions of this act shall have authority to deduct out of the wages of the seamen thereof the amount of all forfeitures to be incurred by any such seaman, and every such master is hereby required correctly and truly to enter the same in a book to be by him kept for that purpose, which shall be signed by the master and the person next to him in the command of the ship, both of whom shall therein certify that it contains all the forfeitures which have been incurred by the seamen of the ship during the voyage, to the truth whereof the master shall make oath when required by the officer of the said president and governors in London, or of the trustees at any of the out-ports, if any, and if not, to the respective receivers or collectors of the said president and governors at such out-ports appointed to receive the monies payable in respect of the wages of merchant seamen, which oath such officer is hereby authorized to administer; and the said book, or a true copy thereof signed and certified as aforesaid, shall, within one calendar month after the ship's return from her voyage, be delivered to the said officer by the master, together with extracts from the log book of the entries therein of the causes of the several forfeitures which are hereinbefore required to be made; and every master as aforesaid who shall refuse or neglect to deliver any such account as hereby required shall forfeit and pay the sum of twenty pounds."

Sect. 11. "It shall and may be lawful to and for the said collectors or receivers, for the better discovery of what shall be due from the several persons serving on board or belonging to any merchant ship or other private ship or vessel aforesaid, by warrant under his or their hand or hands to summon every such master and commander, or in his absence such owner or owners of such ship or vessel as aforesaid, to be and appear at the office of the said collectors or receivers respectively (so that the persons so summoned be not obliged to travel above ten miles for the making such appearance), which said collectors or receivers are hereby empowered and directed to examine every such master and commander or owner or owners as to the truth of the copy of such book or muster roll, and as to the number and times of service of all the several persons belonging to or employed in such ship or vessel, who are liable to or chargeable with the said duty; and if such masters or commanders, or in their absence such owner or owners, or any of them, shall refuse or neglect when so summoned to appear before the said respective persons hereby empowered to examine them in manner as aforesaid, or if they shall appear and obstinately refuse to make a full and true discovery of the matters aforesaid, then and in every such case all and every such offender or offenders for every such refusal shall forfeit the sum of ten pounds of lawful money of Great Britain."

Sect. 12. "And for the more easy and effectual collection of the said duties of and from the masters, commanders, and owners of merchants' ships or other private ships or vessels that are or shall be hired or employed on monthly charter by the several departments of the navy, victualling, ordnance, customs, post-office, or other public offices for or in the service of his majesty, his heirs or successors; be it further enacted, that the secretaries or chief clerks of the aforesaid offices or departments respectively shall once in every year, upon the first day of January in each year, or within twenty days next following at the farthest, upon application being made to them by the said president and governors for that purpose, give and deliver to the receiver or receivers of the said duties in the port of London a true and exact list or account of the number and names of all and every the ships and vessels that in the year preceding every such account shall have been hired or employed by the commissioners or other officers of every such

office respectively for or in the service of his majesty, his heirs or successors, and of all and every the ships and vessels which, at the time of delivering in such account, remain in the service of every such office or department respectively, and of all such as between every such account shall be discharged from such service, and of the names of the masters, commanders, and owners of all and every such ships and vessels respectively, and also of the numbers of seamen or other persons that shall from time to time be employed in every such ship or vessel; and that no treasurer, paymaster, or other officer of or belonging to any such public office or offices shall make out or pay any bill for the freight of any ship or vessel so hired or employed, or to be hired or employed, for or in the service of his majesty, his heirs and successors, as aforesaid, or pay any wages to any master, commander, or other persons employed or that shall be employed in any such ship or vessel, until every such master, commander, or owner respectively shall and do produce and show unto such treasurer, paymaster, or other officer respectively an acquittance or certificate signed by the said receiver or receivers, or his or their deputy or deputies for the time being, whereby it shall appear that such master, commander, or owner hath duly and fully paid and discharged the said duties payable by virtue of this act, and that he is not more than three months in arrear for the same."

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4 & 5 Wil. 4, c. 52.

Treasurers, &c. of such offices to pay no wages or freight to any master, &c. until he produce an acquittance signed by receiver of duties.

Duties to be paid at the port where any ship or vessel shall unload her cargo.

Sect. 13. "All and every the masters, commanders, and owners of all merchant ships and other private ships and vessels whatsoever by this act made liable to the payment of the said duties of two shillings per month and one shilling per month, shall pay all such monies as shall from time to time be due from them and every of them respectively for or on account of the said duties to the collectors and receivers appointed in pursuance of this act or of the said act of the twentieth year of the reign of his said late majesty king George the Second, at whatever port in the said United Kingdom of Great Britain or Ireland any such ship or vessel shall report or discharge her cargo, and before any such ship or vessel shall be cleared inwards by the officers of the customs of his majesty, his heirs or successors, in any such port; and that no customer, collector, comptroller, receiver, surveyor, searcher, waiter, or other officer of the customs of his majesty, his heirs or successors, shall at any time hereafter clear inwards any merchant ship or any private ship or vessel whatsoever by this act made liable to the payment of the said duties, or grant any warrant, or give or grant out any cockets, transire, returns, or discharges unto or for any ship or vessel whatsoever, or shall permit or suffer any such ship or vessel to go out of any of the ports before mentioned, until the said master, commander, or owner or owners of every such ship or vessel respectively shall and do produce and show forth unto such officer or officers an acquittance or certificate, signed by the said receiver or receivers, collectors or collector of the said duties, whereby it shall appear that such master, commander, or owners have duly and fully paid the said duties, and are not more than three months in arrear for the same, or that they are exempt from the payment of the said duties by virtue of the exceptions herein contained; and that every master, commander, or owner of any such ship or vessel who shall refuse or neglect to pay the said duty or duties in manner and within the time hereinbefore limited and appointed for payment thereof, and also every customer, collector, comptroller, receiver, surveyor, searcher, waiter, and other officer of the customs who shall make default in any of the premises enjoined them respectively by this act, or shall in anywise act contrary to the directions hereinbefore mentioned, shall for every such refusal, neglect, default, or act, forfeit the sum of ten pounds of lawful money of Great Britain; and that the amount of such duties as shall be received in pursuance of this act, so far as the same shall be derived from the duty imposed upon the masters, commanders, or owners, and seamen, or in respect of the wages of the masters, commanders, or owners, and seamen, in such ships or vessels as shall not belong to the particular port at which such ships or vessels shall be reported or discharge their cargoes, shall be and the same is hereby required

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Master or owner may enter into agreement with trustees and collectors for half-yearly payments ;

Certificate of such agreement.

Payment under such agreement to be enforced.

If masters fail to produce proper certificates, tide-waiters to be continued on board at their expense.

Penalties by this act recoverable before a magistrate.

Service of notice of application.

Owners and masters of ships of any of the outports

to be remitted by the collectors or receivers of the said duty at the port aforesaid to the receiver of the port of London, and that the same shall, when so received by him, be transmitted by him to the trustees (if any) of the several ports to which every such ship or vessel shall respectively belong: provided always, that it shall and may be lawful for the master, commander, or owner of any merchant ship or private ship or vessel which shall belong to any of the out-ports at which trustees shall have been appointed for the purposes hereinafter mentioned under the provisions of this act or by virtue of the said act of his late majesty king George the Second, to enter into an agreement in writing with the trustees and receiver or collector for such out-port, with the intent that the whole of the duties payable under this act on account of the said ship or vessel, and so often as the same shall be employed, may be paid to the said receiver or collector of the said out-ports by half-yearly payments ; that is to say, within twenty-one days after the thirtieth day of June and thirty-first day of December respectively in every year ; and that it shall and may be lawful for the masters or owners of any ship or vessel employed in the coasting trade, or only going from one port to another in any part of the coasts of Great Britain or Ireland, to enter into a similar agreement with the receiver or collector and the trustees of any of the ports to which such ship or vessel may belong ; and that every such master, commander, or owner, having entered into any such agreement as aforesaid on account of any ship or vessel, shall not be required to make any payment on account of the said duties at any port at which the said ship or vessel shall report or discharge its cargo other than that to which it belongs, nor shall such master or owner be exposed to any of the penalties, nor the said ship or vessel be in any way delayed or impeded by the said officers of his majesty's customs, or any other person, in consequence of such nonpayment at any other port than as aforesaid, provided such master or owner produces before the collector or receiver for the port at which such ship or vessel shall report or discharge her cargo a certificate of the agreement hereinbefore mentioned, to be signed by the collector or receiver for the port to which such ship or vessel belongs ; and such half-yearly payments of the said duties shall be enforced in the same manner and under the same penalties as are hereinbefore provided for the general collection of the duties to be levied under the provisions of this act : provided always, that a yearly statement of the sums so received and distributed at each such port be made and published in one of the county or other newspapers circulating in the district."

Sect. 14. " And to prevent unnecessary delays in clearing ships and vessels, be it further enacted, that in case the master, commander, or owner of any ship or vessel liable to the payment of the duties aforesaid, shall not produce such acquittance or certificate of payment, or of an agreement for such half-yearly payment to be made at the port to which such ship or vessel belongs, as is hereinbefore mentioned, to the tide-surveyor when he shall come on board in order to clear such ship or vessel, the tide-waiters on board such ship or vessel shall be continued until such acquittance or certificate is produced, at the expense of such master, commander, or owner, and not at the expense of the crown."

Sect. 15. " The penalties and forfeitures by this act provided to be paid by any master or owner of any such merchant ship or vessel shall be recoverable before any magistrate or justice of the peace of the port or place at which any such ship or vessel shall be reported or shall discharge her cargo as aforesaid ; and that notice of any application for recovering any such penalty or penalties before such magistrate or justice of the peace which shall have been served on the owner, master, or commander, broker or agent of any such ship or vessel, shall be deemed sufficient notice."

Sect. 16. " And whereas the masters, commanders, and other officers and seamen employed in ships or vessels belonging to persons residing at some of the out-ports of Great Britain or Ireland, may be desirous of having the

said several duties of two shillings per mensem and one shilling per mensem to be allowed and paid by them out of their wages as aforesaid, placed under the direction and management of persons residing in or near to such out-ports respectively; be it therefore enacted, that from and after the first day of October one thousand eight hundred and thirty-four, and without being compelled to wait until this act for the other general purposes herein mentioned is to commence and take effect as is aforesaid, it shall and may be lawful to and for the owners of and the masters and commanders employed on board the ships and vessels belonging to persons residing at any of the said out-ports to assemble and meet at any proper time and place within the limits of the said out-ports that shall be by any five or more of them appointed by giving ten days' previous notice, to be fixed at the custom house, wharf, quay, or any other public place at such respective out-port; and such owners, masters, and commanders, or the greater part of them, being so assembled as aforesaid, are hereby authorized and empowered from time to time to nominate and appoint, by an instrument in writing under their hands and seals, fifteen persons to be trustees for such out-port, for receiving, collecting, and applying the said duties of two shillings per mensem and one shilling per mensem, to be allowed, collected, and received, by virtue of this act, at such respective out-ports, for relief and support of the seamen employed on board the ships or vessels belonging to such persons respectively, and their widows and children, as shall be entitled thereto by virtue of this act; which said trustees shall continue to act until the twenty-sixth day of December one thousand eight hundred and thirty-five, and until new trustees are nominated, appointed, and confirmed; and that within ten days after the twenty-sixth day of December in each succeeding year, the owners, masters, and commanders at such respective out-ports shall have power to meet and choose fifteen persons to be trustees for the year ensuing, by an instrument in writing under the hands and seals of the owners, masters, and commanders, or the majority of them so assembled, having given previous notice in the manner hereinbefore directed; which said respective trustees shall continue from time to time until new trustees are nominated, appointed, and confirmed as aforesaid; and the said instrument shall be sent, free of expense, to the president and assistants or committees of the said corporation, who are hereby authorized and required to confirm the same under the common seal of the said corporation, without fee or reward, within fifteen days after the receipt thereof; which said trustees when they shall be so confirmed as aforesaid (and whereof five shall be a quorum) shall be vested with and have the same powers and authorities to make bye laws, and to revoke or alter the same, and to take, receive, and apply any sum or sums of money which shall be contributed, devised, or bequeathed by any well-disposed persons for the purposes aforesaid, and to appoint receivers and other officers, and to collect, recover, receive, pay, and apply the said duties of two shillings per month and one shilling per month so to be allowed and paid by the seamen or other persons serving on board any ship or vessel belonging to such persons respectively at such out-ports as aforesaid, according to such rules, orders, and regulations as are or shall be established by virtue and in pursuance of this act, or have been established and continued under the provisions of the said act of the twentieth year of the reign of his said majesty George the Second, so far as the same are not inconsistent with or repealed or varied by the provisions of this act; and the said receivers and other officers shall have the same powers and authorities as the other receivers and officers to be appointed in pursuance of this act, and shall be subject and liable to the same penalties and forfeitures, any thing herein contained to the contrary thereof in anywise notwithstanding: provided always, that if the said instrument of trust in this act mentioned shall not be sent to the president and assistant or committees within sixty days after every such nomination and appointment of trustees, when any such shall have taken place, the trust thereby created shall be considered void, and the trustees appointed under it as discharged from the said trust; and that the said

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

empowered to meet and appoint trustees for said duties, who are to continue till 26th December in each year.

New trustees to be chosen yearly, and instrument of election to be confirmed by president, &c.

Five trustees to be a quorum, with power to make bye laws and appoint officers.

Instrument of trust to be forwarded to president and governors within sixty days after every 26th December.

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

Appointments on default not revocable within five years.

Trustees heretofore appointed at several out-ports to be subject to provisions of this act.

Corporation of merchants adventurers of Bristol appointed trustees for duties, &c. received there;

and empowered to hold lands for purpose of this act.

president and governors and their successors duly appointed shall have power to appoint a receiver or receivers for the port or place from which such instrument of trust shall not have been sent as aforesaid, for the purpose of collecting the duties and allowances payable under and by virtue of this act at such port or place aforesaid; and that the said president and governors and their successors shall have power to demand and receive from the out-going trustee or trustees of such port or place aforesaid an account in writing of the former management of such void trust, and also to demand the payment from such trustee or trustees of any balance which may at the time of such default be in the hands of such trustee or trustees, who are hereby required to pay and deliver over the same to such receiver so to be appointed as aforesaid, together with the books of account and other books belonging to such trustee or trustees relative to such trust."

Sect. 17. "Where, on the default or neglect aforesaid, any such receiver or receivers shall be appointed, such appointment shall not be revocable within five years after the same shall have been so made, except by the said president and governors as they shall see fit."

Sect. 18. "And whereas trustees have been nominated and appointed at many of the out-ports of England for similar purposes to those hereby provided under and by virtue of the said act of his majesty king George the Second; be it further enacted, and it is hereby declared, that all such trustees are to be deemed within and subject to the provisions of this act in the same manner as if they had been nominated, appointed, and confirmed under and by virtue thereof; and all such trustees are hereby empowered to continue to act in their respective trusts until the twenty-sixth day of December one thousand eight hundred and thirty-five, or until new trustees shall have been appointed, nominated, and confirmed by virtue of this act."

Sect. 19. "And whereas by letters patent bearing date the eighteenth day of December in the sixth year of the reign of king Edward the Sixth, certain merchants therein named, and their successors, residing in the city and port of Bristol, are incorporated by the name of 'the Master, Wardens, and Commonalty of Merchant Venturers of the City of Bristol,' which said society of merchants are willing, for the benefit of the seamen employed on board ships and vessels in the service of merchants and other traders belonging to the said city and port, to undertake the collection and application of the duties payable under this act at the said city and port, and to continue to exercise the powers and authorities and to discharge the trusts vested in them by the said act of the twentieth year of the reign of king George the Second, except so far as the same are varied or revoked by this act; be it further enacted, that the master, wardens, assistants, and treasurer of the said incorporated society for the time being shall be trustees, and shall have and be vested with the like powers and authorities for collecting, recovering, receiving, and applying the said duties of two shillings per month and one shilling per month to be allowed, collected, and received by virtue of this act at the said city and port, and for taking, receiving, and applying any sum or sums of money which shall be contributed, devised, or bequeathed by any well-disposed persons for the relief and support of the seamen employed in the ships and vessels belonging to the merchants and traders residing at the said city and port, and their widows and children, as shall be entitled thereto by virtue of this act, and to appoint and continue receivers and other officers for the purposes aforesaid, as are given by this act to the said president and governors, according to such rules, orders, and regulations as are or shall be established by virtue of this act, or having been established by virtue of the said act of the reign of king George the Second, are not inconsistent with or revoked by the provisions of this act; and such receivers and officers shall have the same powers and authorities as the other receivers and officers appointed or continued by virtue of this act, and shall be subject and liable to the same penalties and forfeitures; and the said master, wardens, assistants, and treasurer shall also have power to take, receive, and hold any lands, tenements, and hereditaments in such manner and for the like pur-

poses only as the said president and governors are by this act or by the said act of the twentieth year of the reign of king George the Second empowered to take, receive, and hold lands, tenements, and hereditaments, any thing herein contained to the contrary thereof in anywise notwithstanding." 2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

Sect. 20. "And whereas the guild or brotherhood of masters and pilots seamen of the Trinity House of the town and port of Kingston-upon-Hull, are willing, for the benefit of the seamen employed on board ships and vessels in the service of merchants and other traders belonging to the said town and port, to undertake the collection and application of the said duties payable under this act at the said town and port, and to continue to exercise the powers and authorities and discharge the trusts vested in them by the said act of the twentieth year of the reign of king George the Second; be it therefore enacted, that the guild or brotherhood of masters and pilots seamen of the Trinity House of the town and port of Kingston-upon-Hull for the time being shall be trustees, and shall have and be vested with the like powers and authorities for collecting, recovering, and applying the said duties of two shillings per month and one shilling per month to be paid at the said town and port, and for taking, receiving, and applying bequests and donations for the purposes aforesaid, and for appointing and continuing receivers and other officers, as are given and granted by virtue of this Act, to the president and governors aforesaid, according to such rules, orders, and regulations as are or shall be established by virtue of this Act, or being established under and by virtue of the said Act of the twentieth year of the reign of king George the Second, are not inconsistent with or revoked by the provisions of this act; and such receivers and other officers shall have the same powers and authorities as the other receivers and officers to be appointed or continued under this act, and shall be subject to the like penalties and forfeitures, any thing herein contained to the contrary thereof notwithstanding."

Guild of trinity house of Kingston-upon-Hull appointed trustees for the duties, &c. received there.

Sect. 21. "And whereas it is expedient that the port of the city of Glasgow, the port of Greenock, and the ports of Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, all situate and being on the river or firth of Clyde in Scotland, shall be deemed and taken as one united port for the purposes of this act; be it therefore enacted, that the said port of the city of Glasgow, the port of Greenock, and the ports of Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, all situate and being on the river or firth of Clyde, shall, for the purposes of this act, be held, deemed, and taken as one united port; and that it shall and may be lawful for the owners, masters, and commanders of ships and vessels belonging to persons residing at any of the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, to assemble and meet at Glasgow, upon notice given for that purpose in the manner hereinbefore directed, and such owners, masters, and commanders, or the greater part of them, being so assembled, are hereby authorized and empowered from time to time to make bye laws, and elect and appoint fifteen persons to be trustees for such united port, of whom five shall be resident at each of the said ports of Glasgow, Greenock, and Port Glasgow, for the purposes of this act; and which said trustees shall be invested with all the powers and authorities that are given and granted by virtue of this act to the trustees of any other out-port, and shall have and be vested with full power and authority for recovering, collecting, receiving, and applying all such rates and duties as may be deemed adequate for the relief of the sick, worn-out, and decayed seamen belonging to the said ports and their dependencies, and their widows and families, not exceeding in the whole the said duties of two shillings per month and one shilling per month, to be allowed, collected, and received by virtue of this act at the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, and for taking, receiving, and applying any sum or sums of money which may have been or shall be contributed by any well-disposed persons, or which may have been or shall be otherwise collected for the

Ports of Glasgow, Greenock, and Port Glasgow, &c. to be deemed one united port, and masters of ships belonging thereto to elect trustees for collecting duties, &c.

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

Trustees of out-ports to transmit account of the yearly receipts and expenditure to president and governors.

Collectors appointed by trustees or corporations aforesaid not to send duplicate of muster rolls to the president and assistants.

No seaman to have the benefit of this act unless he pays the duty.

Those who have served longest to be first provided for.

Maimed seamen to be provided for at the port where the accident happens.

relief and support of the seamen employed in the ships and vessels belonging to the merchants and traders residing at the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourock, and their dependencies or either of them, and their widows and children, as shall be entitled thereto by virtue of this act, any thing herein contained to the contrary thereof in anywise notwithstanding."

Sect. 22. "All and every the trustees for the several out-ports who now are or shall be appointed under and by virtue of the act of the twentieth year of the reign of his said late majesty king George the Second, or of this act, shall and they are hereby required to transmit annually, within sixty days after every thirty-first day of December in every year, to the said president and governors, a true and correct account of the receipts and expenditure during the year of such their several trusts, conformable to a form or plan to be prescribed and forwarded by the said president and governors, under the penalty of twenty pounds, to be recovered and recoverable before a magistrate or justice of the peace as other penalties given by this act; and that such account of the receipts and expenditure of such trustees, together with an account of the receipts and expenditure of such president and governors, shall be annually laid before the honourable the House of Commons."

Sect. 23. "Nothing herein contained shall be construed to extend to oblige the receivers or collectors of the said duty appointed by the trustees of any of the said respective out-ports to send the duplicates of the muster rolls hereby directed to be delivered to the receivers and collectors of the said duties in the manner herein-before mentioned, to the said president and assistants or committees, for any vessels belonging to the ports where such payment shall be made, but such duplicates shall be delivered by such collectors or receivers to the said respective trustees, and to be by them filed and preserved for their use and inspection."

Sect. 24. "No seaman or other person employed on board any merchant ship, steam packets, or other private ship or vessel shall be entitled to receive any provision or benefit by virtue of this act, at the port of London or elsewhere, unless he be subject or liable to the said duty hereby imposed, and shall pay the same when and where the same shall be required of him by virtue of this act."

Sect. 25. "Those seamen who shall have been longest in the said service, and contributed most towards the said duties, shall be first provided for as worn out or decrepit."

Sect. 26. "And whereas it may happen that seamen or other persons employed on board ships or vessels may by accident in loading or unloading the same, or otherwise by doing such duty on shore as well as on board such ships or vessels, receive such hurt or damage that it may endanger their lives to send them to the port to which the ships or vessels respectively belong; be it therefore further enacted, that in case any seaman or other person employed on board any merchant ship or private ship or vessel shall, in doing his duty on shore, or on board any such ship or vessel while in a port other than that to which the said ship or vessel shall belong, break an arm or leg, or be otherwise hurt or maimed, so that it is necessary that immediate care should be taken of him, it shall and may be lawful for the said president and governors at the port of London, and the respective trustees for the out-ports, as the case may be, and they are hereby required, to provide proper relief for every such seaman or other person that shall be so hurt or maimed at their respective ports, until he shall be so well recovered from such hurt or damage as to be removed and sent with safety to the port to which the ship or vessel in which such seaman was at the time of the accident employed shall belong; and the expense of relieving and maintaining such seaman until he be so removed as aforesaid, and also the expense of removing him, not exceeding twopence per mile, shall be re-paid to the said president and governors at the port of London, or to the trustees, if any, for the respective out-port at which the accident shall have

happened, by the trustees of the port to which such ship or vessel shall belong." 2. *Merchant's Service.*

Sect. 27. "In case any seaman or other person shall serve five years or more on board merchant or other ships or vessels belonging to different ports and shall have paid the monthly duties for that entire period, and shall have become decrepit and worn out, and adjudged either by the said president and assistants or committees, or by the trustees at any of the out-ports, a proper object of relief, such person shall be provided for and relieved at the port where he shall have contributed and paid the greatest part of the said duties for the last five years of his service, any thing herein contained to the contrary notwithstanding." 4 & 5 Wil. 4, c. 52. Disabled seamen having served and paid five years to be provided for where they have contributed most.

Sect. 28. "And whereas it may happen that seamen or other persons employed in the merchant service within the limits of this act may be shipwrecked, or taken by the enemies of his majesty, and on their return from shipwreck or imprisonment may be returning with passes to the places of their respective abodes; be it further enacted, that it shall and may be lawful for the said president and governors or the respective trustees, if they think fit, to relieve any such seaman or other person in such manner as they shall think proper." Seamen who have been shipwrecked, or made prisoners by the enemy, may be relieved.

Sect. 29. "And whereas there may be some circumstances wherein some of the respective certificates hereinbefore mentioned cannot be obtained; be it therefore enacted, that in all cases where the certificates directed to be produced by this act for the purpose of entitling the parties producing the same to relief and support cannot be obtained, such other certificates as shall be satisfactory to the said president and governors or trustees respectively shall be received and allowed so as to entitle the party producing the same to the pensions or other relief provided by this act." Where regular certificates cannot be obtained, others may be admitted.

Sect. 30. "All and every sum and sums of money which shall be due for wages to any seaman, mariner, or other person hired or engaged on board any British merchant ship in any port or ports in Great Britain or Ireland, who shall have died on board during the voyage, shall, within three months after the arrival of such merchant ship in any port or ports of Great Britain and Ireland, be paid to the trustees of the said port to be appointed in pursuance of this act, or to the receiver or collector or other authorized agent of the said president and governors, where there are no such trustees, to and for the use of the executor or executors, administrator or administrators of the seaman, mariner, or other person so dying; and in case no claim shall be made on the said trustees by the executors or administrators of such seamen, on account of such wages, within one year after the same shall have been paid over as aforesaid, that then the said trustees of the said port shall remit the same to the collector or receiver of the said president and governors, or other their authorized agent at the port of London, in such manner and at such times as the said president and governors shall direct, to and for the use of the executor or executors, administrator or administrators of the seaman, mariner, or other person so dying; and in case no claim shall be made on the said president and governors by the executors or administrators of such deceased seaman, on account of such wages, within one year after the same shall have been first paid over to any collector, receiver, or agent of the said president and governors, then it shall be lawful for the said president and governors to direct such wages to be paid over (but without interest for the same) to the widow, or if there be no widow claiming, then to the lawful issue respectively, or such persons as by virtue of the statutes of distribution of intestate's effects shall be entitled to the same; and if any master or commander of any such merchant ship shall neglect or refuse to pay over or tender to the said trustees, or the receiver or collector at the port aforesaid, all and every such sum and sums of money within the time hereinbefore limited, he shall forfeit and pay for every such offence double the amount of the sum or sums of money so due to any seaman, mariner, or other person for wages aforesaid."—[See the 5 & 6 Wil. IV. c. 19, s. 25, *post*, 462.] Wages of deceased seamen to be paid to trustees of port on ship's arrival, to use of executor, &c.

Sect. 31. "All and every such sum and sums of money as shall not be If not demanded

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

in three years by representatives, then to the use of the president and governors, or trustees of respective ports.

President and governors to pay 5 per cent. out of the duties received by them from seamen in the port of London to the Seamen's Hospital Society in that port.

Five per cent. to be deducted from gross amount in lieu of expenses, &c.

Application of penalties.

Recovery of.

lawfully demanded of the said receiver, collector, or other authorized agent of the said president and governors at the port of London by any legal representative, or widow or issue, or other person hereby authorized, as the case may be, within the term of two years after the first payment thereof to any collector or agent of the said president and governors, shall be forfeited, and shall go and be paid to the use of the said president and governors, or to the trustees of the port, if any, to which such ship belongs, by such receiver, collector, or other authorized agent of the said president and governors at the port of London aforesaid."

Sect. 32. "And whereas by an act passed in the last session of this present parliament, intituled 'An Act for incorporating the Members of a Society commonly called The Seamen's Hospital Society, and their Successors, as therein is mentioned and provided; and for the better enabling and empowering them to carry on the charitable and useful Designs of the said Society,' a certain society was incorporated by the name of the Seamen's Hospital Society: and whereas the said society was instituted for the charitable relief of sick and distressed seamen in the port of London, and for the providing them with medical and surgical aid, lodging, support, and clothing until convalescent: and whereas it is expedient to provide some permanent funds for enabling the said society to carry on their said charitable designs; be it therefore enacted, that the said president and governors, and their successors, or their treasurer or other officer for the time being on their behalf, shall and do, from and after this act shall take effect, from time to time pay over to the said seamen's hospital society, or their treasurer for the time being, the amount of five pounds in every one hundred pounds, and in the same proportion for any greater or less sum, on the net amount to be collected and received by the said president and governors and their successors, and by their receiver, collector, or other authorized agent at the port of London for the aforesaid duties of two shillings per mensem and one shilling per mensem hereby made payable, so far as the same shall be derived from the duty imposed upon seamen, or in respect of the wages of seamen, in such ships or vessels as shall belong to the said port of London, such payments to be made to the said seamen's hospital society, or their treasurer for the time being, every three months; (that is to say,) on the day of , on the day of , on the day of , and on the day of , in every year; and the first of such payments to be made on such of the said days as shall happen next after this act shall take effect; all such payments to be applied by the said seamen's hospital society according to the directions of the aforesaid act of the last session of this present parliament."

Sect. 33. "It shall and may be lawful to and for the said receiver or collector or other authorized agent of the said president and governors at the port of London aforesaid, and he is hereby authorized, to deduct and receive from the gross amount of such sum or sums of money as shall be derived from the unclaimed wages of deceased seamen, so received by him in respect of such wages of deceased seamen as aforesaid, the sum of five pounds per centum as, for, and in satisfaction of all expenses and trouble he may be put to in the receipt, collection, or transmission thereof."

Sect. 34. "All penalties and forfeitures given by this act shall be paid and applied in manner following; (that is to say,) one third part thereof to and for the person or persons who shall inform and sue for the same, and the other two third parts thereof to the said president and governors, on account of the trustees of the port to which such ship or vessel in respect of which the forfeiture shall arise belongs; and such penalty or forfeiture shall be recovered by bill, plaint, or information in any of his majesty's courts of record at Westminster, or such of them as do not exceed the sum of twenty pounds, upon information, on the oath of one or more witnesses, before any one or more of his majesty's justice or justices of the peace in any part of the kingdom of Great Britain or Ireland, who shall not reside more than ten miles from the place of abode of the person or persons complained of; which justice or justices is and are hereby authorized and required to

issue out his or their warrant or warrants to bring before him or them every person charged with any offence under this act, and, in case he or they shall refuse or neglect to pay such penalties or forfeitures as aforesaid, to issue his or their warrant or warrants to levy the same by distress and sale of the offender's goods, and, in case no distress can be found, to commit the offender or offenders to the common gaol of the city, town, or place within the jurisdiction of such respective justice or justices, there to remain for the space of three calendar months, or until he or they shall pay the same."

Sect. 35. "If any action shall be brought or suit be commenced against any person or persons for any thing done in pursuance of this act, or in relation to the premises or any of them, every such action or suit shall be laid or brought within two calendar months next after the grievance committed in the county or place where the fact was done, and not elsewhere; and the defendant or defendants in such action may plead the general issue, and give this act, and a tender of amends before action brought, or the special matter, in evidence at any trial to be had hereupon, and that the act or matter was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or if any such action or suit shall not be brought within the time before limited, and shall be brought in any other county or place than as aforesaid, or the jury shall not consider the aggrieved party entitled to more than the amends tendered, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or suffer a discontinuance of his, her, or their action or actions, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, and shall have such remedy for recovering the same as any defendant or defendants hath or have for costs in other cases at law."

Sect. 36. "This act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others."

By the 5 & 6 Wil. IV. c. 19, intituled "An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service," [30th July 1835,] reciting, "Whereas the prosperity, strength, and safety of this United Kingdom and of his majesty's dominions do principally depend on a large, constant, and ready supply of seamen, as well for carrying on the commerce as for the defence thereof; and it is therefore necessary to aid by all practicable means the increase of the number of such seamen, and to give them all due encouragement and protection, and to this end to amend and consolidate the laws relating to their regulation and government:" it is enacted, that from and after the 31st day of July, 1835, from which day this act shall commence and take effect, an act passed in the second year of the reign of her late majesty queen Anne, for the increase of seamen, and better encouragement of navigation, and security of the coal trade; and also an act passed in the second year of the reign of his late majesty king George the Second, for the better regulation and government of the seamen in the merchant service; and also an act passed in the second year of the reign of his late majesty king George the Third, for making perpetual the last-mentioned act, and for extending the provisions thereof to his majesty's colonies in America; and also an act passed in the thirty-first year of the reign of his said majesty king George the Third, for the better regulation and government of seamen employed in the coasting trade of this kingdom; and also an act passed in the forty-fifth year of the reign of his said late majesty, for amending the last-mentioned act; and also an act passed in the thirty-

2. *Merchant's Service.*

4 & 5 Wil. 4, c. 52.

Distress (a).

Commitment (b).

Limitation of actions (c).

Venue.

Plea.

Double costs.

Public act.

5 & 6 Wil. 4, c. 19.

After 31st July,

1835 the acts

2 & 3 Anne, c. 6,

2 Geo. 2, c. 36,

2 Geo. 3, c. 31,

31 Geo. 3, c. 39,

45 Geo. 3, c. 81,

37 Geo. 3, c. 73,

(a) See "Distress under Justices' Warrant," Vol. I.

(b) See "Commitment in Execution," Vol. I.

(c) As to enactments of this nature, see "Justices," Vol. III.; "Constables," Vol. I.

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

58 Geo. 3, c. 38,

4 Geo. 4, c. 25,

3 & 4 Wil. 4, c. 88,

and 59 Geo. 3,

c. 58, shall be repealed.

No seaman to be taken to sea without a written agreement.

Regulations respecting forms of agreements.

seventh year of the reign of his said majesty king George the Third, for preventing the desertion of seamen from British merchant ships trading to his majesty's colonies and plantations in the West Indies; and also an act passed in the fifty-eighth year of the reign of his said late majesty king George the Third, to extend and render more effectual the regulations for the relief of seafaring men and boys, subjects of the United Kingdom, in foreign parts; and also an act passed in the fourth year of the reign of his late majesty king George the Fourth, for regulating the number of apprentices to be taken on board British merchant vessels, and for preventing the desertion of seamen therefrom; and also an act passed in the fourth year of his present majesty's reign, for continuing an act of the fifty-ninth year of king George the Third, for facilitating the recovery of the wages of seamen in the merchant service, shall be and the same are hereby declared to be repealed: provided always, that all offences which shall have been committed and all penalties and forfeitures which shall have been incurred previous to the commencement of this act, against the provisions of the said acts, shall and may be punishable and recoverable under the said acts as if the same had not been repealed."

Sect. 2. "It shall not be lawful for any master of any ship or vessel belonging to any subject of his majesty of this United Kingdom trading to parts beyond the seas, or of any British registered ship of the burthen of eighty tons or upwards employed in any of the fisheries of the United Kingdom, or in trading coastwise or otherwise, to carry to sea on any voyage, either from this kingdom or from any other place, any seaman or other person as one of his crew or complement (apprentices excepted), without first entering into an agreement in writing with every such seaman, specifying what monthly or other wages each such seaman is to be paid, the capacity in which he is to act, and the nature of the voyage in which the ship is intended to be employed, so that the seaman may have some means of judging of the probable period for which he is likely to be engaged; and the said agreement shall contain the day of the month and year in which the same shall be made, and shall be signed by the master in the first instance, and by the seamen respectively at the port or place where such seamen shall be respectively shipped; and the master shall cause the same to be, by or in the presence of the party who is to attest their respective signatures thereto, truly and distinctly read over to every such seaman before he shall be required to sign the same, in order that he may be enabled to understand the purport and meaning of the engagement he enters into and the terms to which he is bound."

Sect. 3. "In the cases of ships as aforesaid bound to parts beyond the seas, except as hereinafter provided, every such agreement shall be in the form and shall contain true entries under their respective heads of the several particulars set forth in the schedule to this act annexed and marked (A.), so far as the same can be ascertained; and that the owners and the master of every such ship, or one of them, shall, on reporting his ship's arrival at her port of destination in the United Kingdom, deposit or cause to be deposited with the collector or comptroller of the customs at such port a true copy of such agreement, attested by the signature of the master, to the intent that every person who may be interested in any such agreement may at all times have the means of knowing the terms and conditions thereof; and that in the cases of ships employed in fishing on the coasts of the United Kingdom, and of ships regularly trading from one part of the United Kingdom to another, and of ships regularly trading or making regular voyages to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest, the agreement to be entered into as aforesaid shall be in the form and shall contain the true entries under their respective heads of the particulars set forth in the schedule to this act annexed and marked (B.), so far as the same can be ascertained; and that the owner or one of the owners of every such ship employed in fishing or in trading in any of the cases last mentioned shall to the like intent, within ten days next after the expiration of every six

months ending on the 30th day of June and the 31st day of December in each year, deposit with the collector or comptroller of the customs of the port to which the ship shall belong, a true copy of every agreement which shall have been entered into with any person composing part of the crew thereof within the preceding six months, attested by the signature of such owner; and all copies of agreements so required by this act to be deposited as aforesaid shall, when the same shall have been so deposited, and shall be required to be produced in evidence on the part of any seaman, be received and taken as legal proof of the contents of the agreement."

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Sect. 4. "If any master of any such ship as aforesaid shall carry out to sea any seaman (apprentices excepted) without having first entered into such agreement as is hereby required, he shall for every such offence forfeit and pay the sum of ten pounds for or in respect of each and every such seaman he shall so carry out contrary to this act; and if any master shall neglect to cause the agreement to be distinctly read over to each such seaman, as by this act he is enjoined, he shall for every such neglect forfeit and pay the sum of five pounds; and if any master shall neglect to deposit with the collector or comptroller of the customs a copy of the agreement hereby required to be made and deposited as aforesaid, or shall wilfully deposit a false copy of any such agreement, he shall for every such neglect or offence forfeit and pay the sum of fifty pounds."

Penalty for default.

Sect. 5. "No seaman, by entering into or signing such agreement as aforesaid, shall forfeit his lien upon the ship, nor be deprived of any remedy for the recovery of his wages which seamen are now lawfully entitled to against either the ship, the master or the owners thereof; nor shall any agreement made contrary to or inconsistent with the provisions of this act, or any clause whereby a seaman shall consent to forego the right which the maritime law gives him to wages in the case of freight earned by ships subsequently lost, or containing any words to that effect, be valid or binding on any seaman signing the same; and that in cases in which it may be necessary that the agreement should be produced to sustain a claim on the part of a seaman no obligation shall lie upon the seaman to produce the same, nor shall any seaman fail in any suit or proceeding for the recovery of his wages for want of the production of any such agreement, or of any deposited copy thereof as aforesaid, or for the want of any notice to produce the same; any law or usage to the contrary notwithstanding."

Seamen not to be deprived of legal remedies.

No agreement contrary to the act to be valid.

Seamen not bound to produce agreement.

Sect. 6. "In case a seaman shall at any time, after having signed an agreement as hereinbefore mentioned, neglect or refuse to join the ship on board of which he shall have engaged to serve, or shall refuse to proceed to sea in her, or shall absent himself therefrom without leave, it shall be lawful for any justice of the peace in any of his majesty's dominions at home or abroad near to the place where such ship shall happen to be, upon complaint of the fact made upon oath by the master, mate, or owner thereof, and such justice is hereby required, by his warrant (a) to cause such seaman to be apprehended and brought before him; and in case such seaman shall not give a reason to the satisfaction of such justice for his neglect, refusal or absence, as the case may be, upon due proof of such neglect, refusal, or absence it shall be lawful for any such justice to commit (b) such seaman to the house of correction, there to be kept to hard labour for a period not exceeding thirty days: provided always, that in case such seaman, on being apprehended and brought before the said justice, shall consent to join the ship and proceed on the voyage for which he shall have agreed, it shall be lawful for the said justice at the request of the master, instead of committing such seaman, to cause him to be conveyed on board the said ship, or to be delivered to the master for the purpose of proceeding on the voyage, and also to award to the master such costs incurred in the apprehension of the seaman as to such justice shall seem reasonable, not exceeding in any case

Seamen refusing to join or to proceed in the ship, or absenting themselves therefrom, may be committed to gaol.

(a) See form, *post*. As to warrants of apprehension in general, see *post*, "Warrant." in execution in general, see "Commitment in Execution," Vol. I. As to the order for the commitment, see title

(b) See form, *post*. As to commitments "Order," Vol. III.

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

Forfeiture for temporary absence from duty.

the sum of forty shillings, which shall be chargeable against and may be abated from the wages to grow due to such seaman."

Sect. 7. "If any seaman, after having signed such agreement as aforesaid, or after the ship on board which he shall have agreed to serve shall have left her first port of clearance, and before the period for which he shall have agreed to serve shall be completed, shall wilfully and without leave absent himself from the ship (a), or otherwise from his duty, he shall (in all cases not of absolute desertion, or not treated as such by the master,) forfeit

(a) Mr. Wordsworth in his useful little work on this statute, makes the following note and collection of cases on this provision. Formerly in ships of one hundred tons and upwards, employed in the coasting trade, if a seaman neglected or refused to proceed on the intended voyage, he forfeited to the owners *all* the wages due to him at the time,—but the forfeiture for desertion afterwards, and before the completion of the voyage, and cargo delivered, or before he had received a discharge in writing from the master, was only *one month's* wages to the use of Greenwich Hospital, 31 Geo. 3, c. 39, s. 3 and 4. And in *all* cases of a seaman *wilfully* absenting himself from the ship without leave, he forfeited to the use of Greenwich Hospital *two days'* pay for each day's absence, 2 Geo. 2, c. 36, s. 5, and 31 Geo. 3, c. 39, s. 4. Absence occasioned by the power of a foreign country in which the ship may happen to be, without any fault on the part of the seaman, does not work any forfeiture. (*Beale v. Thompson*, 4 East, 546. *Smith*, 144. 3 B. & P. 405.) So also, where the plaintiff was a foreigner. (*Ichason v. Broderick*, 4 East, 566. 1 *Smith*, 153.) So also the forfeiture may be *waived*, as where it is provided by a ship's articles, that any of the crew who shall absent themselves from the ship without leave, shall forfeit their wages: if, after one of the crew has so absented himself, the master receives him back again, and allows him to work like the others, the forfeiture is waived, and the wages are recoverable. (*Miller v. Brant*, 2 Camp. 590, per Lord Ellenborough.) To entitle the master to deduct a month's wages for the benefit of Greenwich Hospital, under the 2 Geo. 2, c. 36, ss. 6 & 9, it is incumbent on him to show that the seaman quitted his ship without leave in writing: and such a deduction cannot be set off by the master, in an action for wages by the seaman, unless the master has previously debited himself to Greenwich Hospital for the amount in a book kept according to the direction of the statute 2 Geo. 2, c. 36, s. 3. (*Frontine v. Frost*, 3 B. & P. 302.) If there be a clause in ship's articles, that the seaman may leave at the end of three months, if the ship is in port or in perfect safety, of which the captain is to be the sole judge, and the ship be in port in safety after three months, the sea-

men may leave the ship without the permission of the captain. (*Neave v. Pratt*, 2 N. R. 408.) This being the case of a private ship of war, and not of a merchant vessel, the forfeiture depended upon the particular contract of the parties, and not upon any legislative enactment. If seamen go on shore on the ship's duty, and when the boat is about to return, request to be permitted to remain on shore to get some victuals, which is refused and the boat goes without them, if they afterwards go and offer to return to their duty on board the ship, it is not desertion. (*Sigard v. Roberts*, 3 Esp. 71.) A sailor, under articles providing for a forfeiture of his wages in case of breach of any of his engagements, among which is that of serving faithfully during the voyage, can recover nothing, if he is left ashore in the course of it owing to his own fault in being absent, though he had no intention of deserting. (*Sherman v. Bennett*, M. & M. 489.) By a clause in the ship's articles of a south sea whaler, the seamen serving on board were to lose their wages, if they did not return with the ship to the port of London. After serving twenty-seven months, some of the seamen were with the consent of the captain exchanged into another ship for others belonging to that ship: held, that if these seamen had lost their wages under the articles, they could at any rate receive a reasonable compensation for their services under the count for work and labour. (*Hillyard v. Mount*, 3 C. & P. 93.) Semble, that a regulation in the seaman's articles, of a merchant ship, that "every seaman committed to custody for the preservation of good order, shall forfeit his wages, together with every thing belonging to him on board the ship," is in point of law a good and proper regulation. (*Rice v. Haylett*, 3 C. & P. 534.) If seamen have incurred a forfeiture of their wages, and in a time of distress, when the ship is aground, the captain call on those seamen to assist in getting her off, this is no waiver of the forfeiture; but if the captain continues them in their work after the peril is over, it is otherwise. (*Train v. Bennett*, 3 C. & P. 3., M. & M. 82.) Where the second mate of a vessel was ordered, with three other seamen to take the ship's boat and convey the captain on board, who had gone on shore at the Mauritius,

out of his wages to the master or owner of such ship the amount of two days pay for every twenty-four hours of such absence, and in a like proportion for any less period of time, or, at the option of the said master, the amount of such expenses as shall have been necessarily incurred in hiring a substitute to perform his work; and in case any seaman while he shall belong to the ship shall without sufficient cause neglect to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship, he shall be subject to a like forfeiture in respect of every such offence, and of every twenty-four hours continuance thereof; and in case any such seaman, after having signed such agreement, or after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship without a previous discharge (d) or leave from the master thereof, he shall forfeit to the master or owner one month's pay out of his wages: provided always, that no such forfeitures shall be incurred unless the fact of the seaman's temporary absence, neglect of duty, or quitting the ship shall be duly entered or recorded in the ship's log book, which entry shall specify truly the hour of the day at which the same shall have occurred, and the period during which the seaman was absent or neglected his duty, the truth of which entry it shall be incumbent on the owner or master in all cases of dispute to substantiate by the evidence of the mate or some other credible witness."

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Sect. 8. "In all cases where the seaman shall have contracted for wages by the voyage or by the run, and not by the month or other stated period of time, the amount of forfeitures to be incurred by seamen under this act shall be ascertained in manner following; (that is to say,) if the whole time spent in the voyage agreed upon shall exceed one calendar month, the forfeiture of one month's pay, expressed in this act, shall be accounted and taken to be a forfeiture of a sum of money bearing the same proportion to the whole wages as a calendar month shall bear to the whole time spent in the voyage, and in like manner a forfeiture of two days pay or less shall be accounted and taken to be a forfeiture of a sum bearing the same proportion to the whole wages as the same period of time shall bear to the whole time

How amount of forfeiture is to be ascertained when seamen contract for the voyage.

and on their getting on shore, they refused to return with him, but remained there all night, and he was obliged to get back to his ship in another boat, and redeem his on the following morning, when such mate was taken before a magistrate at the Mauritius, and committed to prison for a month; held, that this was such an act of disobedience as to warrant the captain to detain his property on board the vessel by way of forfeiture; and consequently, that trover could not be maintained against the captain for such detention. (*Weatherpen v. Laidler*, 8 Moore, 37.) If a seaman's claim for wages is resisted on the ground that he would not do his work, which by the ship's articles is to cause forfeiture of wages, it is a good answer to this defence to show that the refusal to work was caused by the misconduct of the captain, which went to induce the men to incur such forfeitures. (*Train v. Bennett*, 3 C. & P. 3; *M. & M.* 82.) The legislature has also punished with the forfeiture of wages, the offence of neglecting or refusing to assist the master in defending the ship against the attack of pirates, 22 & 23 Car. 2. c. 11, s. 7. (*Abb.* 472.) So also it seems, that neglect of duty, drunkenness, or any cause sufficient to

justify a master in discharging a seaman during the voyage, would also deprive the seaman of his wages. (*The Exeter*, 2 Rob. A. R. 261.) So also if the cargo be embezzled or injured by the fraud or negligence of the seamen, so that the merchant has a right to claim a satisfaction from the master and owners, they may, by the custom of merchants, deduct the value thereof from the wages of the seamen, by whose misconduct the injury has taken place. (*Molloy*, Bk. 2, c. 3, s. 9, 2 Shower, 167. 1 *Ld. Raym.* 650. *Abb.* 472.) This can be considered only as affecting the particular individual guilty of the embezzlement, and not the whole crew. And an innocent person is not, it seems, liable to contribute a portion of his wages to make good the loss occasioned by the misconduct of others. (*Thompson v. Collins*, 1 N. R. 347.) If there be a want of sufficient provisions on board the ship, it is a sufficient justification for his leaving the vessel, and will not deprive him of his right to his wages. (*The Castille*, 1 Hag. A. R. 59, and see *The Eliza*, *Id.* 186.)

(d) See the repealed act, 2 Geo. II. c. 36, s. 6, and *Frontine v. Frost*, 3 B. & P. 302.

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5 & 6 Wil. 4, c. 19.

Forfeiture for desertion.

Increased wages paid in consequence of desertion recoverable from the deserter.

Penalty for harbouring deserters.

No debt exceeding 5s. recoverable from a seaman till voyage is ended.

Seamen's effects not to be detained by keepers of lodging houses under pretence of debt.

The period within which wages are to be paid.

spent in the voyage; and if the whole time spent in the voyage shall not exceed one calendar month, the forfeiture of one month's pay shall be accounted and taken to be a forfeiture of the whole wages contracted for; and if such time shall not exceed two days, the forfeiture of two days' pay shall be accounted and taken to be a forfeiture of the whole wages contracted for; and the master is hereby authorized to abate the amount of all forfeitures hereinbefore enacted out of the wages of any seaman incurring the same."

Sect. 9. "Every seaman who shall absolutely desert (a) the ship to which he shall belong shall forfeit to the owner or master thereof all his clothes and effects which he may leave on board, and all wages and emoluments to which he might otherwise be entitled, provided the circumstances attending such desertion be entered in the log book at the time, and certified by the signature of the master and mate or other credible witness; and that an absence of a seaman from the ship for any time within the space of twenty-four hours immediately preceding the sailing of the ship without permission from the master thereof, or for any period however short, under circumstances plainly showing that it was his intention not to return thereto, shall be deemed an absolute desertion; and in case any such desertion shall take place in parts beyond the seas, and the master of the ship shall be under the necessity of engaging any seaman as a substitute for the deserter at a higher rate of wages than that stipulated in the agreement to be paid to the seaman deserting, the owner or master of the ship shall be entitled to recover from the deserter by summary proceeding, in the same manner as wages are by this act made recoverable, any excess of wages which such owner or master shall pay to such substitute beyond the amount which would have been payable to the deserter in case he had duly performed his service pursuant to his agreement."

Sect. 10. "If any person shall, either on shipboard or on shore, harbour or secrete a seaman who shall have signed an agreement to proceed on a voyage to parts beyond the seas, and shall have deserted or absented himself without leave from his ship, knowing or having reason to believe him to be a deserter or to be absent without leave, every person so offending shall for every such seaman so harboured or secreted forfeit and pay the sum of ten pounds; and that no debt exceeding in amount five shillings, incurred by any seaman after he shall have signed any such agreement as aforesaid, shall be recoverable until the voyage agreed for shall have been concluded; nor shall it be lawful for any keeper of a public house or of a lodging house for seamen to withhold or detain any chest, bed or bedding, clothes, tools, or other effects of any seaman, for any pretended debt alleged to have been contracted by any such seaman; and in case any such chest, bed, bedding, clothes, tools, or other effects as aforesaid shall be withheld or detained contrary to this act, it shall be lawful for any justice of the peace in any part of his majesty's dominions, upon complaint upon oath to be made by any such seaman or on his behalf, to inquire into the matter, and if he shall see right by warrant under his hand and seal to cause any such property or effects so withheld or detained contrary to this act to be seized and delivered over to the seaman."

Sect. 11. "The master or owner of every ship shall and he is hereby required to pay to every seaman entering into such contract as aforesaid his wages, if the same shall be demanded, within the respective periods following; (that is to say,) if the ship shall be employed in trading coastwise, the wages shall be paid within two days after the termination of the agreement, or at the time when any such seaman shall be discharged, whichever shall

(a) If a seaman quit the ship with the master's leave, and when ordered to return, refuse to do so, his wages are forfeited, (*The Bulmer*, 1 Hag. 163,)—but they are not forfeited by his quitting the ship,

and refusing to proceed in her on a voyage not designated by the articles. (*The Eliza*, Id. 182. *The Countess of Harcourt*, Id. 248.)

first happen; and if the ship shall be employed in trading otherwise (a) 2. *Merchant's Service*.
than coastwise, then the wages shall be paid at the latest within three days

5 & 6 Wil. 4, c. 19.

(a) Mr. Wordsworth in his treatise on this statute, p. 23, has the following note on this subject. The payment of wages is generally dependent upon the payment of freight,—if the ship has earned freight, the seamen have in like manner earned their wages, but this general principle does not apply with respect to seamen entering into the navy, whose wages in that event become at once due and payable, 5 & 6 Wil. 4, c. 19, s. 46. And as in general, if a ship destined on a voyage out and home has delivered her outward-bound cargo, but perishes in the homeward voyage, the freight for the outward voyage is due, so in the same case the seamen are entitled to receive their wages for the time employed in the outward voyage and the unloading of the cargo, unless by the terms of the contract the outward and homeward voyages are consolidated into one. (*Anon.* 1 *Ld. Raym.* 639, 739. *Abb.* 447. And see further on this subject, *Anon.* 2 *Shower* 283. *Buck v. Rawlinson*, 1 *Bro. P. C.* 102. *Edwards v. Child*, 2 *Vern.* 727.) It has of late years been usual to stipulate by express terms in the agreement, that in case the ship shall by danger of the sea, or any other accident whatsoever, be disabled, or lost during the voyage for which she is destined, so that she does not return to or arrive at the port of London, the seamen shall not receive or claim any further wages than the impress money paid to them in advance, notwithstanding the ship shall at any time before her being so disabled or lost, have broke bulk, or delivered any goods at any port or place whatsoever. And there is no instance of a claim made by the seamen against the terms of this clause in the articles. (*Abb.* 449.)

As to what was deemed the *port of discharge*, with reference to the seamen's wages, see *Appleby v. Dods*, 8 *East*, 300. If the owners of a ship abandon an intended voyage after the seamen have been hired, the seamen are to be paid for the time during which they may have been employed on board the ship. (*Wells v. Osman*, 2 *Ld. Raym.* 1044.) In a case of *shipwreck*, where the parts of a stranded ship were sold for more than sufficient to pay the wages of the seamen, no part of the cargo having been saved, and the seamen having exerted themselves very laboriously to save the parts of the ship, and not having departed until they were dismissed by the master, the court of admiralty admitted their claim to the wages. (*The Neptune*, 1 *Hag.* 227.)

Wages—loss of vessel. — A seaman entered into articles of agreement to serve on board a ship “bound from the port of London to the South Seas to procure a cargo of sperm oil, and to return therewith to the port of London, where the voyage was to end;” and he was to receive in lieu of wages, a 95th share of the net proceeds of the cargo. By the 6th article of the agreement, it was stipulated that “no one of the said officers and crew shall demand or be entitled to his share of the net proceeds of the said cargo until the arrival of the said ship or vessel at London, and her said cargo shall be there sold and delivered, and the money for the same actually received by the owner; nor unless he shall have well and truly performed the above-mentioned voyage according to the true intent and meaning of these articles.” The vessel sailed upon the voyage, and procured a cargo; but on her voyage home was disabled and condemned in a foreign port. The cargo was transhipped, and, with the exception of a small portion sold for repairs, was delivered in London, and the freight upon it paid. The seaman accompanied the cargo in the vessel to which it was transhipped, but died before it reached London. Held that the representatives of the seaman were not entitled to his share of the proceeds of the cargo under the agreement, but only to a quantum meruit for his services on board the second vessel. (*Luke v. Lyde*, 2 *Burr.* 882; *Hunter v. Prinsep*, 10 *East*, 394; *Webster v. De Tastet*, 7 *T. R.*, 157; *Beale v. Thompson*, 4 *East*, 546; *Appleby v. Dods*, 8 *East*, 300; *Anon. Ld. Raym.*, 639; *Edwards v. Child*, 2 *Vern.*, 727; *Morrison v. Hamilton*, 1 *Bell's Com.* 515; *Carstairs v. Rickman*, 2 *N. & M.*, 562; *Cook v. Jennings*, 7 *T. R.*, 381; *Bright v. Cowper*, 1 *Brownlow*, 21; *Anon. Lid*, 179; *Abernethey v. Landale*, 2 *Dougl.* 539; *Cutter v. Powell*, 6 *T. R.*, 320; *Hernaman v. Bawden*, 3 *Burr.*, 844; *Back v. Rawlinson*, 1 *Br. P. C.* 102; *The Mariner's Case*, *Mod.* 879; *Opy v. Child*, 1 *Salk.* 31, 12 *Mod.* 38, *S. C.*; *Day v. Searle*, 2 *Str.*, 968, 2 *Barnard*, 419; *Howe v. Napier*, 4 *Burr.* 1944; *Johnson v. Sims*, 1 *Peter's Adm. Rep.*, 215;) *Jesse v. Roy*, 1 *C. M. & R.* 316, 4 *Tyr. S. C.*

As to the *time of payment* of seamen's wages. This in many cases depended upon the arrival of the ship at her intended port of discharge, see above, and the 8 Geo. 1, c. 24, s. 7; 2 Geo. 2, c. 28, s. 7; 12 Geo. 2, c. 30; 37 Geo. 3, c. 73. *Abb.* 453. And by the 7th section of the 2

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after the cargo shall have been delivered, or within ten days after the seaman's discharge, whichever shall first happen; in either of which last-mentioned cases of payment being delayed the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one fourth part of the estimated balance due to him; and in case any master or owner shall neglect or refuse to make payment in manner aforesaid he shall for every such neglect or refusal forfeit and pay to the seaman the amount of two days pay for each day not exceeding ten days during which payment shall without sufficient cause be delayed beyond the period at which such wages or part wages are hereby required to be paid as aforesaid, for the recovery of which forfeiture the seaman shall have the same remedies as he is by law entitled to for the recovery of his wages: Provided always, that nothing in this clause contained shall extend to the cases of ships employed in the southern whale fishery, or on voyages for which seamen by the terms of their agreement are compensated by shares in the profits of the adventure."

Such payment of wages to be deemed valid notwithstanding bill of sale, &c.

Sect. 12. "Every such payment of wages to a seaman shall be valid and effectual in law notwithstanding any bill of sale or assignment which may have been made by any such seaman of such wages, or of any attachment or incumbrance thereon; and that no assignment or sale of wages made prior to the earning thereof, nor any power of attorney expressed to be irrevocable for the receipt of any such wages, shall be valid or binding upon the party making the same."

Masters to give seamen their certificates on their discharge.

Sect. 13. "Upon the discharge of a seaman from the ship in which he shall have served he shall be entitled to receive from the master a certificate of his service and discharge, specifying the period of service and the time and place of the discharge of such seaman, which certificate shall be signed by the master; and if any master shall refuse to give such certificate to any such seaman without having reasonable cause for his refusal, he shall for every such offence forfeit and pay to him the sum of five pounds."

Penalty for default.

For obtaining immediate payment of wages of seamen in certain cases.

Sect. 14. "If after a seaman shall have been discharged from any ship or vessel three days he shall be desirous of proceeding to sea on another voyage, and in order thereto shall require immediate payment of the wages due to him, it shall be lawful for any justice of the peace in any part of his majesty's dominions, on application from such seaman, and on satisfactory proof that he would be prevented from employment by delay, to summon [see form, *post*] the master or owner of such ship or vessel before him, and to require cause to be shown why immediate payment of such wages should not be made; and if it shall appear to the satisfaction of such justice that there is no reasonable cause for delay he shall order payment to be made forthwith, and in default of compliance with such order such master or owner shall forfeit and pay the sum of five pounds."

Summary mode of recovering wages not exceeding 20*l*.

Sect. 15. "And whereas seaman, in cases of dispute, may be exposed to great inconvenience, expense, and delay in obtaining payment of their wages; for remedy thereof be it enacted, that in all cases of wages not exceeding twenty pounds, which shall be due and payable to a seaman for his service in any ship as aforesaid, it shall be lawful for any justice of the peace in any part of his majesty's dominions residing near to the place where the ships shall have ended her voyage, cleared at the Custom House, or discharged her cargo, or near to the place where the master or owner upon whom respectively the claim is made shall be or reside, upon complaint on oath to be made to such justice by any such seaman or on his behalf, to summon such master or owner to appear before him to answer such complaint, and upon the appearance of such master or owner, or in default thereof on due proof of his having been so summoned, such justice is hereby empowered to examine upon the oath of the parties and their

Geo. 2, c. 36, the master was obliged to pay the seamen their wages, if demanded, in *thirty days* after the ship's entry at the Custom House, except where there

was a covenant to the contrary, or at the time the seamen were discharged, whichever first happened.

respective witnesses (if there be any) touching the complaint and the amount of wages due, and to make such order [see Form, *post*] for payment thereof as shall to such justice appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof it shall be lawful for such justice to issue his warrant [see Form, *post*] to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale) after deducting thereout all the charges and expenses incurred by the seaman in the making and hearing of the complaint, as well as those incurred by the distress and levy and in the enforcement of the justice's order; and in case sufficient distress cannot be found it shall be lawful for the said justice to cause the amount of the said wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such justice, then he is hereby empowered to cause the party upon whom the order for payment shall be made to be apprehended and committed to the common gaol of the county, there to remain without bail until payment shall be made of the amount of the wages so awarded, and of all costs and expenses attending the recovery thereof; and the award and decision of such justice as aforesaid shall be final and conclusive as well on every such seaman as on the owner and master of the ship." [Notwithstanding this enactment the seaman may proceed in the admiralty court, subject however to not settling his costs of suit, as is provided for by the next section. It will be seen that the statute does not admit of an appeal against the magistrate's decisions, but as the right to a certiorari is not expressly taken away, that right exists.]

Sect. 16. "If any suit for the recovery of a seaman's wages shall be instituted against the ship, or the master or owner thereof, either in the high court of admiralty or in any vice-admiralty court, or against the master or owner in any court of record in his majesty's dominions, and it shall appear to the judge in the course of such suit that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a justice of the peace as herein-before provided, then and in every such case it shall be lawful for such judge and he is hereby required to certify to that effect, and thereupon no costs of suit shall be awarded to the plaintiff."

Sect. 17. "Whenever any ship whatever belonging to any subject of the United Kingdom, except in cases of wreck or condemnation, shall be sold at any port out of his majesty's dominions, the master in all such cases (unless the crew in the presence of the British consul or vice-consul, or in case of there not being any such consul or vice-consul, then in the presence of one or more British resident merchants at such port, shall signify their consent in writing to be there discharged,) shall and he is hereby required, besides paying them the wages to which they shall be entitled under the agreement, either to provide them with adequate employment on board some other British vessel homeward bound, or to furnish the means of sending them back to the port in his majesty's dominions at which they were originally shipped, or to some port in the United Kingdom, as shall be agreed upon, by providing them with a passage home, or depositing with the consul or vice-consul such a sum of money as shall be by him deemed reasonably sufficient to defray the expenses of their subsistence and passage; and if the master shall refuse or neglect to do so, such expenses when defrayed shall be a charge upon the owner whose ship shall be so sold, except in cases of barratry (a), wreck (b), or condemnation, and may be recovered against such owner as so much money paid and expended on his account, together with full costs, at the suit of the consul or other person defraying such expenses, or of his majesty's attorney general on behalf of his majesty, in case the same shall have been allowed to the consul out of the public monies."

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

In what case costs of suit for recovery of wages not to be allowed.

When ship is sold at a foreign port, the crew to be sent home at the expense of the master or owners.

(a) See "*Barratry*," Vol. I.

(b) See, *post*, "*Wreck*."

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

Supply of medicines to be kept on board, and seamen hurt in the service of the ship to be provided with advice, &c. gratis.

Establishment of register office for seamen.

Letters to and from registrar to be free from postage.

Masters of ships trading abroad to deliver lists of their crews on their return.
4 & 5 W. 4, c. 52.

Sect. 18. "And whereas it is necessary that due provision should be made for the preservation of the health and lives of the seamen employed in the merchant service; be it further enacted, that every ship sailing from the United Kingdom to any place out of the same shall have and keep constantly on board the same a sufficient supply of medicines suitable to accidents and diseases arising on sea voyages, which shall be renewed from time to time as shall be found requisite; and in case any default shall be made in providing or keeping supplied such medicines as aforesaid, or in case any of the seamen shall receive any hurt or injury in the service of the ship, (a) the expense of providing the necessary surgical and medical advice, and attendance and medicines which the seaman shall stand in need of until he shall have been cured or shall have been brought back to some port of the United Kingdom, shall be borne and defrayed by the owner and master of the ship, or one of them, without any deduction whatever on that account from the seaman's wages."

Sect. 19. "And whereas it is expedient that a register should be formed and maintained of all the mariners and seafaring men of the United Kingdom, be it therefore enacted, that as soon as conveniently may be after the passing of this act there shall be established in the port of London an office, to be called 'The General Register Office of Merchant Seamen,' which shall consist of a registrar and such assistants and clerks with such salaries and allowances as shall be fixed and regulated from time to time by the lord high admiral or the commissioners for executing the office of lord high admiral of the United Kingdom for the time being, and that such office shall be kept at the custom house of the said port, and daily attendance shall be given thereat during the usual hours of business there; and the said registrar, his assistants and clerks, shall be under the control and directions of the said lord high admiral or the commissioners for executing the office aforesaid for the time being."

Sect. 20. "For the more readily carrying this act into execution all letters and packets addressed to and sent by the said registrar upon any business relating to the register office created by this act shall be free from the duty of postage; and that all letters and packets which shall be forwarded by the said registrar in the execution of his duty as such registrar shall be under a cover, with the words, 'Pursuant to Act of Parliament of the Fifth Year of King William the Fourth,' printed thereon, and the said registrar shall sign his name under such words, and every such cover shall be sealed with the seal of his office; and if the said registrar or any other person shall send or cause to be sent under any such cover any paper, letter or writing, or any inclosure, other than what shall relate to the public business of the said office, every person shall for every such offence forfeit and pay the sum of one hundred pounds."

Sect. 21. "And whereas by an act of the last session of Parliament, intituled An Act to amend An Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service, and for other Purposes, a certain book by way of muster roll is for the purposes of the said act required to be kept on board merchant ships, which book is to contain such entries and statement of accounts as by the said act is required: and whereas it is expedient for the better effectuating the objects of this act that a due return should be made to the said registrar of merchant seamen of many of the particulars in the said act specified; [see 4 & 5 Wil. IV. c. 52. s. 9, *ante*, 441]; Be it therefore further enacted, that the master of every ship belonging to any subject of his majesty, and bound to parts beyond the seas, except in the

(a) See the 4 & 5 Wil. IV. c. 52, s. 2, *ante*, 438. A seaman is entitled to the whole of his wages, even when he has been unable to render his service, if his inability has proceeded from any hurt received in the performance of his duty, or from natural sickness happening to him in the course of the voyage. (*Chandler v. Greeve*, 2 H. Bl., 606, note; *Paul v. Eden*, Abb. 442.)

cases next herein-after provided, shall not only keep the book so required by 2. *Merchant's Service.* the said recited act, but shall, on reporting his ship on her arrival at her port of destination in the United Kingdom, deliver or cause to be delivered to the collector or comptroller of the customs at such port an account, signed by himself, of all the seamen and others (including apprentices) who shall have belonged to the ship at any time during her absence from the United Kingdom, which account shall contain a true and correct return under their respective heads of the several particulars expressed in the form set forth in the schedule annexed to this act, and marked (C.)" [See Schedule, *post.*]

5 & 6 Wil. 4, c. 19.

Sect. 22. "Within twenty-one days after the thirtieth day of June and the thirty-first day of December in each year the owner or one of the owners of every ship as aforesaid employed in fishing on the coasts of the United Kingdom, or in regularly trading from one part of the United Kingdom to another, and of every ship regularly trading or making regular voyages to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest, shall deposit or cause to be deposited with the collector or comptroller of the customs of the port to which the ship shall belong, or with the said registrar in London, an account, signed by such owner, or by the master, of the voyages in which any such ship shall have been engaged during the preceding half year ending on the respective days above mentioned, and setting forth the Christian and surnames of the several persons (including the master and apprentices) who shall have belonged to the ship at any time during such periods respectively, which account shall be in the form and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (D.) and to this act annexed." [See Schedule, *post.*]

Masters of ships in home trade to return similar lists.

Sect. 23. "In case any ship as aforesaid shall be lost or sold while absent from the United Kingdom, then an account containing a similar return as required in the several and respective cases before mentioned, which shall be made out up to the period of such loss or sale, shall by the persons who shall at that time have been respectively owner and master thereof, or by one of them, be delivered or transmitted to the said registrar in the port of London so soon as he shall be enabled to make such return after the loss, and within twelve calendar months at farthest after the sale of the ship."

Return to be made in case of ship lost or sold abroad.

Sect. 24. "The said several accounts and returns by this act required to be deposited with or delivered to the collector or comptroller as aforesaid shall by such officers of the customs be transmitted from time to time to the said registrar for the purposes of this act; and every such owner or master of any ship as aforesaid who shall refuse or wilfully neglect to deliver or cause to be delivered any such list or account as by this act is required, shall for every such refusal or neglect forfeit and pay the sum of twenty-five pounds."

Lists to be certified, and transmitted to the registrar.

Penalty on the master for neglect.

Sect. 25. "And in order that due care may be taken of the effects of British seamen dying in foreign parts, and that a proper disposition may be made thereof, be it further enacted, that whenever a British seaman being abroad shall die elsewhere than on board a British ship (a), leaving any money or effects within the limits of any British consulate, it shall be lawful for his majesty's consul there and he is hereby required to claim and take charge of all such money and effects, and to dispose of the said effects for the benefit of the next of kin of the deceased or other person who may be by law entitled to the same; and in case no claim shall be made to the same within three calendar months after the death of such seaman the said consul shall, after abating the amount of any expenses which shall have been incurred in getting in the assets of the deceased, remit the balance of all such monies which either have already arisen or shall hereafter arise by the means aforesaid to the president and governors of the corporation 'For the

As to the disposal of the effects of seamen dying abroad.

(a) See 4 & 5 Wil. IV. c. 52, s. 30, *ante*, 449.

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

Relief and Support of sick, maimed, and disabled Seamen, and of the Widow and Children of such as shall be killed, slain, or drowned, in the Merchant Service,' to be by such president and governors paid over and disposed of in the same manner and under the same regulations as are provided by the said recited act of the last session of parliament with respect to the wages of seamen dying on board merchant ships; and in case any seaman so dying as last mentioned shall leave on board the ship to which he shall belong any monies, clothes, or other effects, and the same shall not be claimed within one month after the ship's return to the United Kingdom by the executor or administrator of the deceased, then the master of the said ship shall and he is hereby required to deposit the same or the proceeds arising therefrom with the president and governors aforesaid, to be by them disposed of in the same manner as is provided by the said act with respect to the wages of deceased seamen." [See the 4 & 5 Wil. IV. c. 52, s. 30, *ante*, 449.]

Parish boys may be put out apprentices in the sea service (a).

Sect. 26. "And whereas the giving due encouragement to such of the youth of the United Kingdom as shall voluntarily betake themselves to the sea service, and obliging others to do so who by reason of their own or their parents' poverty are destitute of the means of obtaining subsistence and employment, will not only greatly tend to the increase of able and experienced seamen, as well for the service of the royal navy as for carrying on the commerce of his majesty's subjects, but will likewise provide them with employment, and thus materially diminish the burthen of expense cast upon parishes by their maintenance; be it therefore enacted, that it shall be lawful for the overseers of the poor or other persons having the authority of overseers of the poor of any parish, township, or place in the United Kingdom, or in whom the duty of overseers or guardians of the poor shall or may be vested, and they are hereby empowered, to bind by indenture and put out any boy having attained the age of thirteen years, and of sufficient health and strength, who or whose parent or parents is or are chargeable to or maintained by any such parish or township, or who shall beg for alms therein, with his consent but not otherwise, an apprentice in the sea service to any of his majesty's subjects being the master or owner of any ship registered in any port of the United Kingdom, for so long time and until such boys shall respectively attain the age of twenty-one years, which binding shall be as effectual in the law to all intents and purposes as if such boy had been bound by virtue of any statute now in force respecting the binding of parish apprentices, or as if such boy were of full age and had bound himself an apprentice, and notwithstanding the residence of the master or owner to whom he may be bound shall be more than forty miles distant from such parish or place: provided always, that every such binding shall be made in the presence of two justices of the peace acting for the county, riding, division, city, borough, or place within which such parish or township shall be situate, which justices shall execute the indenture in testimony of their having been satisfied that such boy hath attained the age and is of sufficient health and strength as required by this act; and to the end that the period when the service under such indenture shall expire may the more certainly appear, the age of every such boy shall be inserted in his indenture, the same being truly taken from a copy of the entry of his baptism in the register book of the parish in which he was born (where the same can be obtained), which copy shall be given and attested by the offi-

(a) The provisions contained in the twenty-sixth and following sections (except the thirty-seventh and thirty-eighth) of the 5 & 6 Wil. IV. c. 19, relating to binding apprentices to the sea service are nearly the same as those contained in the repealed statutes 2 & 3 Anne, c. 6; 4 Anne, c. 19; 13 Geo. II. c. 17; 2 Geo. III. c. 15, s. 22 & 25, and 4 Geo. IV. c. 25.

As to the law of apprentices in general and parish apprentices, a considerable portion of which will be here applicable, see title "**Apprentices**," Vol. I. By the common law, an apprentice cannot be compelled to go beyond sea, see Vol. I. p. 183, 191. As to the settlement of sea service apprentices, see 4 & 5 Wil. IV. c. 76, s. 67, *ante*, title "**Paor**," Vol. IV.

ciating minister of such parish without fee or reward; and in cases where no such entry of baptism can be found, the justices aforesaid shall inform themselves as fully as they can of such boy's age, and from such information shall insert the same in his said indenture, and the age of every such boy so inserted therein shall (in relation to the continuance of his service) be taken to be his true age without any further proof thereof."

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 1

Sect. 27. "It shall be lawful for any master or person to whom any poor parish apprentice shall have been or shall be hereafter bound to a service on shore according to the statutes already in force relating to such apprentices, or for the executors or administrators, or, there being none such, for the widow of any such deceased master, with the concurrence of two or more justices of the peace residing in or near to the place where such poor boy shall have been bound apprentice, to assign and turn over such poor boy, with his consent but not otherwise, apprentice to any master or owner of any ship not having her complement of apprentices as hereinafter required, to be employed by such master or owner in the sea service during the period then remaining unexpired of his apprenticeship."

Parish apprentices may be turned over to the sea service.

Sect. 28. "In the event of the death of the master of any such poor or parish apprentice to the sea service, it shall be lawful for the widow or the executor or administrator of such deceased master to assign the indenture of any such apprentice for the residue of the term then unexpired therein to any master or owner of any such ship not having the complement of apprentices as hereinafter required; all which assignments, if executed within the limits of the port of London, shall be attested by the said registrar or one of his assistants or clerks, and if at any other port shall be attested by the collector or comptroller of the customs of such port."

Indentures may be assigned on the death of the master (a).

Sect. 29. "Such overseers or other persons as aforesaid shall cause the indentures of apprenticeship to be prepared and transmitted in duplicate, if the master or owner of the ship to whom such apprentice is to be bound shall be or reside within the limits of the port of London, to the said registrar, and if at any other port to the collector or comptroller of the customs at such port; and the said overseers or other persons as aforesaid shall cause each such poor boy to be conducted and conveyed to such port or place by the constable and at the expense of the parish or township sending him thither, and shall also, upon the execution by the master of the counterpart of the indentures, cause to be paid down to the master the sum of five pounds, to be expended in providing such boy with necessary sea clothing and bedding; which sum, as well as the expenses to be incurred in the conveyance of the boy as aforesaid shall, when paid, be allowed to them in their accounts of monies expended in relation to the poor."

Parish officers to prepare indentures.

Constable to convey the apprentice.

Sect. 30. "The counterparts of all such indentures shall, if the master shall be or reside within the limits of the port of London, be executed in the presence of and attested by the said registrar or one of his assistants or clerks, and if at any other port by the collector or comptroller of the customs at such port, and also in both cases by the constable or other officer who shall convey such apprentices thither, and such indentures shall bear date respectively on the days on which they are executed; and the constable on his return shall deliver such counterparts to the overseers or other persons as aforesaid, to be by them registered and preserved."

How counterparts of indentures to be attested.

Sect. 31. "The master of every ship belonging to any subject of the United Kingdom, and of the burthen of eighty tons and upwards, shall have on board thereof, at the time of clearing out from any port of the United Kingdom, one apprentice or more, in the following proportions to the number of tons of his ship's admeasurement, according to the certificate of registry; that is to say, every ship of eighty tons and under two hundred tons shall have one apprentice at the least, every ship of two hundred tons and under four hundred tons shall have two apprentices at the least, every ship of four hundred tons and under five hundred tons shall have three appren-

Every ship to have apprentices according to her tonnage.

(a) See Vol. I., p. 188.

2. *Merchant's Service.*

5 & 6 Wil 4, c. 19.

Penalty for deficiency of apprentices.

Apprentices exempt from contributions for hospitals.

Indentures and assignments to be registered.

Indentures of apprentices to be registered.

tices at the least, every ship of five hundred tons and under seven hundred tons shall have four apprentices at the least, and every ship of seven hundred tons and upwards shall have five apprentices at the least, all of whom at the period of their being bound respectively shall have been under seventeen years of age, and shall have been duly bound for the term of four years at the least; and if any such master shall neglect to have on board his ship the number of apprentices as hereby required he shall for every such offence forfeit and pay the sum of ten pounds in respect of each apprentice so deficient."

Sect. 32. "No apprentice bound or assigned pursuant to this act, nor any master or owner in respect of any such apprentice, shall be liable to the payment of any contribution towards the support of any hospital or institution."

Sect. 33. "The said registrar in London and the collector and comptroller of the customs at each other port shall, in a book to be kept for that purpose, cause to be entered from time to time all such indentures and assignments of parish apprentices as aforesaid, specifying therein the dates thereof, the names and ages of the apprentices, the parishes or places from whence sent, the names and residences of the masters to whom bound or assigned, and the names, ports, and burthen of the respective ships to which such masters belong, and shall make and subscribe on each indenture or assignment respectively an indorsement purporting that the same hath been duly registered pursuant to this act; and every such collector and comptroller shall also at the end of each quarter of the year transmit a list of the indentures and assignments so registered by him within the preceding quarter, containing all the particulars aforesaid, to the said registrar, for the purposes of this act" (a).

Sect. 34. "In every case of a person voluntarily binding himself apprentice to the sea service, the indentures to be executed on such occasions shall be registered in a book to be kept for that purpose by the said registrar in London and by the collector and comptroller of the customs at each other port at which the indenture shall be executed, in which book shall be expressed the dates of the several indentures, the names and ages of the apprentices, the names and residence of their masters, and (if known) the names, port, and burthen of the several ships on board which they are respectively to serve; and such registrar and collector or comptroller respectively shall indorse and subscribe upon each indenture a certificate purporting that the same hath been duly registered pursuant to this act, and the said collector and comptroller shall also at the end of each quarter of the year transmit a list of the indentures so registered by them within the preceding quarter, containing all the particulars aforesaid, to the said registrar, for the purposes of this act; and that it shall be lawful for the master, or in case of his death his executor or administrator, with the consent of the apprentice, if of the age of seventeen years or upwards, and if under that age with the consent of his parent or guardian, to assign or transfer the indenture of any

(a) It was held that the indentures of a mariner's apprentice, bound under 5 Eliz. c. 5, s. 12, must be enrolled in the next corporate town, according to the statute, in order to sustain an action of covenant, and not in the Trinity-house, according to the charter of that company; for the king cannot by his charter alter the place of enrolment, but it must be according to the direction of the statute; otherwise the covenants should be according to the common law, and the apprentice not bound by them. (*Poulson's case*, 3 Lev. 389; 1 Bott, 634; *Barber v. Dennis*, 6 Mod. 69; 1 Bott, 527.) The provision, however, contained in that

clause, was intended for the benefit of the apprentice, and as a check upon the master. Therefore, where the indenture was not enrolled in the town where the apprentice was then inhabiting, nor in the next corporate town to the habitation of the apprentice, pursuant to the stat. 5 Eliz. c. 5, nor with the collector of the customs, pursuant to the 2 & 3 Ann. c. 6, it was holden that the apprentice should not be prejudiced by the neglect of the master to enrol the indenture, although the stamp duties were thereby evaded. (*R. v. Gainsborough*, Burr. S. C. 586; 1 Bott, 635.)

such apprentice to any other person who may be the master or owner of any registered ship; and all such voluntary apprentices may, during the term for which they shall be bound, be employed in any ship of which the master of any such apprentice may be the master or owner: provided always, that every such assignment shall be registered and indorsed by the said registrar, or by the collector or comptroller of the customs at the port where the master shall be resident, or to which his ship shall belong, in which latter case the said collector or comptroller shall notify the same to the said registrar as is hereinbefore provided with regard to the indenture of such apprentice."

Sect. 35. "All agreements with the crew of a ship made in pursuance of and in conformity with this act, and all indentures of parish and voluntary apprentices to the sea service, and all counterparts and assignments of such indentures to be respectively executed after the passing of this act, shall be wholly exempt from stamp duty." [The 4 & 5 Wil. IV. c. 89, s. 11, imposing a duty of 2s., is repealed by this enactment.]

Sect. 36. "If any master to whom any apprentice mentioned in this act shall be bound or assigned shall neglect to cause the indenture or the assignment thereof (as the case may be) to be registered as required by this act, or shall, after the ship shall have cleared outwards on the voyage upon which such ship may be bound, suffer his apprentice to quit his service (not entering into that of his majesty), except in case of death, desertion, sickness, or other unavoidable cause, to be certified in the log book of the ship, every such master shall for every such offence forfeit and pay the sum of ten pounds."

Sect. 37. "Any two or more justices of the peace residing at or near to any port at which any ship as aforesaid, having on board thereof any sea apprentice, shall at any time arrive, shall have full power and authority to inquire into and examine, hear and determine, all claims of apprentices upon their masters under their indentures, and all complaints of hard or ill usage exercised by their respective masters towards any such their apprentices, or of misbehaviour on the part of any such apprentice, and to make such orders therein as they are empowered by law to do in other cases between masters and apprentices."

Sect. 38. "And whereas by an act passed in the ninth year of the reign of his late majesty king George the Fourth, for consolidating and amending the statutes in England relative to offences against the person, a summary jurisdiction is provided for the punishment of persons guilty of common assaults and batteries: and whereas it is expedient that the provisions of the said act should be extended to similar offences committed on board merchant ships as hereinafter provided; be it therefore further enacted, that in the case of any assault or battery which shall after the commencement of this act be committed on board any merchant ship belonging to any subject of the United Kingdom in any place at sea, or out of his majesty's dominions, it shall be lawful for any two justices of the peace in any part of his majesty's dominions, upon complaint of the party aggrieved, to hear and determine any such complaint, and to proceed and make such adjudication thereon as by the said act any two justices are empowered to do, subject however to such provisos and limitations as are contained in the said act with respect to the cases of assault and battery therein mentioned; and the fine or forfeiture to be imposed in any such case shall be payable to the merchant seamen's hospital or institution at or nearest to the port or place where such adjudication shall be made."

Sect. 39. "No parish or voluntary apprentice to the sea service shall be at liberty to enter into the naval service of his majesty during the period of his apprenticeship without the consent of his master; but if nevertheless he shall voluntarily enter on board any of his majesty's ships of war, and shall

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

Assignments to be registered.

Agreements and indentures of apprentices exempt from stamp duty.

Penalty on masters neglecting to register indentures, and for suffering apprentices to quit their service.

Justices to determine complaints (a).

Common assaults may be summarily punished by two justices (b).

Masters entitled to receive the wages of apprentices entering into the navy.

(a) See as to the jurisdiction of justices over other apprentices, *ante*, Vol. I. p. 190. law under it, title "Assaults in General," Vol. I. p. 283.

(b) See the 9 Geo. IV. c. 31, and the Vol. V.

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

Forcing on shore or leaving behind any person belonging to the crew deemed a misdemeanor.

Jurisdiction of courts for trying such misdemeanors.

be allowed by his master to continue therein, such master, in case he shall give notice to the secretary of the admiralty of his consent to his apprentice's remaining in his majesty's service during the residue of the term of his apprenticeship, shall, upon the production of his indenture, be entitled, at the time of paying off the ship, to receive to his own use any balance of wages that may be then due and payable to any such apprentice up to the period of the expiration of his indenture (a)."

Sect. 40. "And whereas great mischiefs have arisen from masters of merchant ships leaving seamen in foreign parts, who have been thus reduced to distress, and thereby tempted to become pirates, or otherwise misconduct themselves, and it is expedient to amend and enlarge the law in this behalf; be it therefore further enacted, that if any master of a ship belonging to any subject of the United Kingdom shall force on shore and leave behind, or shall otherwise wilfully and wrongfully leave behind on shore or at sea, in any place in or out of his majesty's dominions, any person belonging to his crew, before the return to or arrival of such ship in the United Kingdom, or before the completion of the voyage or voyages for which such person shall have been engaged, whether such person shall have formed part of the original crew or not, every person so offending shall be deemed guilty of a misdemeanor, and shall suffer such punishment by fine or imprisonment or both as to the court before which he shall be convicted shall seem meet; and the said offence may be prosecuted by information at the suit of the attorney general on behalf of his majesty, or by indictment or other proceeding in any court having criminal jurisdiction in his majesty's dominions at home or abroad, where such master or other person as aforesaid shall happen to be, although the place where the offence may be therein averred to have been committed (which averment is hereby required to be substantially according to the fact) shall appear to be out of the ordinary local jurisdiction of such court; and such court is hereby authorized to issue a commission or commissions for the examination of any witnesses who may be absent or out of the jurisdiction of the court; and at the trial the depositions taken under such commission or commissions, if such witnesses shall be then absent, shall be received in evidence." [This enactment is a virtual repeal of the 9 Geo. IV. c. 31, s. 30; it is more extensive, so far that it

(a) As to the impressment of apprentices, it was held in *R. v. Edwards, MS. (D.)* S. C. reported 7 T. R. 745, that an apprentice is protected from being impressed. Upon showing cause against a rule obtained for quashing a writ of *habeas corpus*, to bring up the body of an apprentice detained on board a king's ship at the Nore, *per Lord Kenyon et tot. Cur.* To impress an apprentice is an illegal act; and the party impressed may regain his liberty by applying for an *habeas corpus*, or his master may bring an action for the detention of his apprentice. The writ of *habeas corpus* being a writ specially granted by the legislature for the liberty of the subject, it can be granted only at the instance of the party detained, and not on the application of any other person. Lord Kenyon observed, that he remembered Lord Mansfield to have said, that for a long time he was not aware that he had a power, as chief justice, to relieve the party by his warrant for his discharge, but that he had been informed by Mr. Way that such a power had existed ever since the time of Lord Holt. Lord Kenyon declared, that

he should not hesitate a moment to grant his warrant on the present occasion, though the writ, having been moved on behalf of the master, and not of the party impressed, must be quashed. An apprentice, his lordship observed, could not even enter voluntarily, for his time was his master's property. Lawrence, J., mentioned the case of an apprentice who had absconded from his master and enlisted as a soldier, but was immediately restored upon application to the war office by his master, in consequence of the apprentice disliking his situation, and expressing a wish to return to his master's service. The war office, however, though they restored the apprentice, were advised to indict him for taking the bounty. The learned judge said, that Mr. J. Buller had informed him that Lord Mansfield had frequently by his warrant discharged persons in the situation of this apprentice at the request of their masters. The power to grant such a warrant was given by a clause in some act of parliament in the time of Hen. VII. or VIII.; he did not recollect exactly which.

admits of] the offence being prosecuted "where such master or other person shall happen to be," the 9 Geo. IV. only allowed it to be prosecuted in this country.]

Sect. 41. "No such master shall discharge any individual person of his crew, whether British subject or foreigner, at any of his majesty's colonies or plantations, without the previous sanction in writing of the governor, lieutenant governor, secretary, or other officer appointed in that behalf by the government there, or in the absence of all such authorities at or near to the port or place at which the ship shall be then lying, then of the chief officer of customs of such colony or plantation resident at or near to such port or place; nor shall he discharge any such person at any other place abroad without the like previous sanction in writing of his majesty's minister, consul, or vice-consul there, or in the absence of any such functionaries respectively are hereby authorized and required, and all which said merchants are hereby authorized, in a summary way, to inquire into the grounds of any such proposed discharge by examination on oath, and thereupon to grant or refuse such sanction according to their discretion, having regard to the objects of this act."

Sect. 42. "No such master shall be at liberty to leave behind at any place abroad, either on shore or at sea, any person of his crew as aforesaid, on the plea of such person not being in a condition to proceed on the voyage, or having deserted from the ship, or otherwise disappeared, unless upon a previous certificate in writing of one of such functionaries or merchants as aforesaid, if there be any such at or within a reasonable distance from the place where the ship shall then be, if there be time to procure the same, certifying that such person is not in such condition, or has deserted or disappeared, and cannot be brought back; and all such functionaries as aforesaid are hereby authorized and required, on the application of any such master, to inquire by examination on oath into the circumstances, and to give or refuse such certificate according to the result of such examination."

Sect. 43. "If any such master shall leave behind any one of his crew as aforesaid contrary to this act, in any indictment or proceeding the proof of his having obtained such sanction or certificate as aforesaid shall be upon him, it being the intention hereof that, except in the case of entering into his majesty's naval service, no person of the crew shall be discharged, either with or without his consent, in any place abroad where such functionary can be found, unless he shall have given such sanction thereto."

Sect. 44. "Every such master who shall leave any person of his crew as aforesaid on shore at any place abroad, under a certificate of his not being in a condition to proceed on the voyage, shall deliver to one of the said functionaries, or if there be none such to any two respectable merchants there, or if there be but one then to such one merchant, a just and true account of the wages due to such person, and pay the same to the seaman either in money or by a bill drawn upon the owner of his ship; and if by bill, then such functionary or merchant, according to the case, is hereby authorized and required by certificate indorsed on such bill to testify that the same is drawn according to this act for money due on account of wages of a seaman, or to that effect; and any such master who shall deliver a false account, or refuse or neglect to deliver a just and true account of the wages due to such person, and to pay the amount thereof in money or by bill as aforesaid, shall for every such offence forfeit and pay, in addition to the wages due, the penal sum of twenty-five pounds."

Sect. 45. "Provided always, that nothing in this act or in any agreement contained shall be deemed to extend to prevent any seaman or person belonging to any merchant ship whatever from entering or being received into the naval service of his majesty, nor shall any such entry be deemed a desertion from the merchant ship, nor incur any penalty or forfeiture whatever, either of wages, clothes, or effects, or other matter or thing, notwithstanding any agreement made to the contrary hereof; and all masters and

2. *Merchant's Service.*

5 & 5 Wil. 4, c. 19.

Seamen not to be discharged abroad, without sanction of one of certain functionaries;

Nor to be left abroad on the plea of incapacity to proceed, desertion, or disappearance, without a similar authority.

If any of the crew are left behind, the proof of sanction or authority shall be upon the master.

Seamen when allowed to be left behind to be paid their wages.

Act not to extend to prevent seamen from entering into the navy.

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19

Upon entry of seamen into the navy from merchant ships they shall be entitled to the immediate delivery up of their clothes and payment of any wages that may be due.

Power to his majesty to sue for the amount advanced for the relief of seamen left abroad.

owners of ships are strictly prohibited from introducing into any ship's articles or agreement with the crew any clause or matter by which any penalty or forfeiture of any kind is agreed to be incurred by a seaman upon his entry into his majesty's service."

Sect. 46. "When any seaman shall quit a merchant ship in order to enter into his majesty's naval service, and shall thereupon be actually received into such service, not having previously committed any act amounting to and treated by the master as a total desertion, he shall be entitled immediately upon such entry to the delivery up of all his clothes and effects on board such merchant ship, and (in case the ship shall have earned freight) to receive from the master the payment of the proportionate amount of his wages up to the period of such entry, either in money or by a bill on the owner thereof; all which clothes, effects, money, and bill such master is hereby required to deliver up to him accordingly, under a penalty of twenty-five pounds for any refusal or neglect, to be recovered, with full costs of suit, by such seaman: provided always, that if no freight shall have been earned at the time of such entry, then the master shall and he is hereby required to give the seaman so entering a bill upon the owner for his wages to the period of such entry, payable on the ship's safe arrival at her destined port; but in case the master shall have no means of ascertaining the balance justly due, he shall make out and deliver to such seaman a certificate of the period of his services and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of his majesty's ship the agreement entered into with the seaman for the voyage; and every such master, upon the delivery up of such clothes and effects and the settlement of such wages in manner herein mentioned, shall be entitled to receive from the officer in command of the ship of his majesty into which such seaman shall have entered a certificate signed by the said officer, which such officer is hereby required to give upon the request of the master, testifying that such seaman has entered into such ship of his majesty to serve, as proof that the master had not parted with the seaman contrary to the provisions of this act."

Sect. 47. "In all cases where any master shall have forced on shore or left behind any person against the provisions of this act, and such person shall become distressed and be relieved under the provisions of an act passed in the eleventh year of the reign of his late majesty king George the Fourth, for amending and consolidating the laws relating to the pay of the royal navy (a), or under any act hereafter to be passed, then, in addition to the wages due from and the penalties imposed on such master, his majesty shall be entitled to sue such master or the owner of the ship, at the option of the commissioners for executing the office of lord high admiral of the United Kingdom, for all the charges and expenses which shall have been incurred in the subsistence, necessary clothing, and conveyance home of any such person, as so much money paid, laid out, and expended to the use of the defendant, which, together with full costs of suit, may be recovered in the same manner as other debts due to his majesty are recoverable in any court having jurisdiction in cases of debts due to the crown; and in any proceeding for that purpose proof of the account furnished to the said commissioners by any one of such functionaries, or by such two merchants or one merchant, according to the case, as provided by the said act of the eleventh year of king George the Fourth, shall, together with proof of payment by the said commissioners or by the treasurer of the navy of the charges incurred on account of any such person, be sufficient evidence that such person was relieved and conveyed home, according to the intent of the said act, at his majesty's expense; and the court in which any proceeding for the recovery of the said money shall be instituted is hereby authorized to issue a commission or commissions for the examination of witnesses abroad, and the depositions taken under such commission or commissions shall be received as evidence."

(a) See 11 Geo. IV. & 1 Wil. IV. c. 20, s. 32, *ante*, 414.

Sect. 48. "And in order the more effectually to secure a compliance with the provisions of this act, be it further enacted, that every master of a ship belonging to any subject of his majesty, on his arrival at any foreign port where there shall be a British consul or vice-consul, shall deliver to such consul or vice-consul the agreement with his ship's crew, to be by such consul or vice-consul preserved during the ship's stay there, and to be returned to the master before his leaving the port, without any fee or charge being made for the same; and if any such master shall refuse or neglect to deliver any such agreement to the consul or vice-consul, as is hereby required, he shall for every such offence forfeit and pay the sum of twenty-five pounds."

Sect. 49. "During the ship's stay at any such foreign port no seaman shall be shipped by any such master except with the privity of such consul or vice-consul, to be indorsed or certified on the agreement, under a penalty of twenty-five pounds to be forfeited by any such master for every seaman who shall be so shipped in breach of this act."

Sect. 50. "The master of every ship belonging to any subject of his majesty as aforesaid shall and he is hereby required to produce and show the muster roll of the ship and the agreement with his crew to the captain, commander, or other commissioned officer of any of his majesty's ships requiring a production and sight thereof; and that it shall be lawful for any such officer in his majesty's naval service, if he shall think it necessary so to do, to muster the crew and passengers (if any) of any ship belonging to any subject as aforesaid, in order to be satisfied that the provisions of this act and of any other act by which the crews of merchant ships are regulated, and the laws relating to navigation, with respect to the crews of merchant ships, have been duly complied with; and if any such master shall, upon being required so to do by any such officer, neglect or refuse to produce such muster roll or such agreement, or shall obstruct any such officer in the execution of his duty in mustering the said crew or passengers, or shall produce any false muster roll, he shall for every such offence forfeit and pay the sum of twenty-five pounds."

Sect. 51. "For the better carrying into effect the purposes of this act it shall be lawful for the said registrar and his assistants, and also for the respective collectors or other chief officers of the customs at the several ports of the United Kingdom and of the British possessions abroad, to demand from the master of every ship hereby required to enter into an agreement with his crew the production of the muster roll of the ship and also of such agreement, with liberty to take a copy of either or both, and to muster the crew and apprentices of such ship, for the purpose of ascertaining whether the provisions of this act and of the laws relating to navigation have been complied with; and if any such master, on such demand being made, shall refuse or neglect to produce such muster roll or agreement, or shall refuse to allow a copy of either document to be taken, or shall refuse to permit or shall prevent his crew and apprentices from being so mustered, he shall for every such neglect, refusal, or offence forfeit and pay the sum of fifty pounds."

Sect. 52. "And to avoid doubts in the construction of this act, be it further enacted, that every person having the charge or command of any ship belonging to any subject of the United Kingdom shall, within the meaning and for the purposes of this act, be deemed and taken to be the master of such ship; and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall in like manner be deemed and taken to be a seaman within the meaning and for the purposes of this act; and that the term 'ship,' as used in this act, shall be taken and understood to comprehend every description of vessel navigating on the sea; and that the term 'owner,' as applied to a ship, shall be understood to comprehend all the several persons, if more than one, to whom the ship shall belong; and that all steam and other vessels employed in carrying passengers or goods shall be deemed trading ships within the meaning and for the purposes of this act."

Sect. 53. "All penalties and forfeitures imposed by this act, and for the

2. Merchant's Service.

5 & 6 Wil. 4, c. 19.

Ship's agreement on arrival at a foreign port to be deposited with the consul.

Penalty for neglect.

No seaman to be shipped at a foreign port without the privity of the consul.

Masters to produce agreements to officers of king's ships.

Registrar and officers of customs empowered to require production of the agreement and muster roll.

Definition of the terms master, seaman, ship, and owner.

Recovery of penalties.

2. *Merchant's Service.*

5 & 6 Wil. 4, c. 19.

Application of forfeitures.

recovery whereof no specific mode is hereinbefore provided, shall and may be recovered, with costs of suit, in manner following; (that is to say,) all penalties and forfeitures not exceeding twenty pounds shall be recoverable at the suit of any person by information and summary proceeding before any one or more justice or justices of the peace in any part of his majesty's dominions residing near to the place where the offence shall be committed or where the offender shall be, which justice or justices shall have full power to levy the amount of any such penalty or forfeiture and costs by distress and sale of the offender's goods, or by commitment of the offender for non-payment of the amount; and all penalties and forfeitures exceeding twenty pounds shall and may be recovered, with costs of suit, in any of his majesty's courts of record at Westminster, Edinburgh, or Dublin, or in the colonies, at the suit of his majesty's attorney-general or other chief law officer of the crown in any part of his majesty's dominions other than in Scotland, and if in Scotland at the suit of the lord advocate; and that all penalties and forfeitures mentioned in this act for which no specific application is hereinbefore provided shall, when recovered, be paid and applied in manner following; (that is to say,) one moiety of every such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered, and the residue shall be divided between Greenwich hospital and the merchant seamen's hospital or institution at the port to which the ship shall belong, and if there shall be none such at the said port, then the whole of the said residue shall be paid to Greenwich hospital: provided always, that it shall be lawful for the court before which or the justice or justices before whom any proceedings shall be instituted for the recovery of any pecuniary penalty imposed by this act to mitigate or reduce such penalty as to such court or justices respectively shall appear just and reasonable, in such manner, however, that no such penalty shall be reduced below one half of its original amount: and provided also, that all proceedings so to be instituted shall be commenced within two years next after the commission of the offence, if the same shall have been committed at or beyond the Cape of Good Hope or Cape Horn, or within one year if committed on the European side of those limits, or within six calendar months after the return of the offender or the complaining party to the United Kingdom."

As to ships belonging to any British colony having a legislature.

Act may be amended during this session.

Sect. 54. "Provided always, that this act shall not extend or apply to any ship registered in or belonging to any British colony having a legislative assembly, or to the crew of any such ship, while such ship shall be within the precincts of such colony; any thing hereinbefore contained to the contrary in anywise notwithstanding."

Sect. 55. "This act may be amended, altered, or repealed by any act or acts to be passed during the present session of parliament."

III. Assaulting Seamen, &c. to prevent them Working.

Assault on seaman, &c., to prevent him from working.

By 9 Geo. IV. c. 31, s. 26, "if any person shall unlawfully and with force hinder any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat, wound, or use any other violence to any person, with intent to deter or hinder him from" working at or exercising the same, "every such offender may be convicted thereof before two justices of the peace, and imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding three calendar months: provided always, that no person, who shall be punished for any such offence by virtue of this provision, shall be punished for the same offence by virtue of any other law whatsoever."

See this offence, and the forms and proceedings relative thereto, already considered, *ante*, "Assault," Vol. I. p. 293.

IV. Assaulting Commanders to hinder them from Fighting.

See this offence considered, "Assault," Vol. I. p. 293.

V. Schedules.

SCHEDULE to which the 2 WIL. IV. c. 40 refers.

No. 1.

TABLE OF FEES to be taken for PROBATES of WILLS, LETTERS of ADMINISTRATION, and LETTERS of ADMINISTRATION with WILL ANNEXED, of Warrant and Petty Officers, and Non-commissioned Officers of Marines, and also of Common Seamen and Marines, in pursuance of this Act.

PROBATES.						
	Under what Sum the Effects sworn.	Where the Deceased was a Warrant or Petty Officer in the Navy, or a Non-commissioned Officer of Marines.		Where the Deceased was a Common Seaman or Marine.		
		If the Executor be a Wife, Child, Parent, Brother, or Sister of the Deceased.	If the Executor be more remotely related, or a Stranger in Blood to him.	If the Executor be a Wife, Child, Parent, Brother, or Sister of the Deceased.	If the Executor be more remotely related, or a Stranger in Blood to him.	
	£.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	
If the Executor sworn in London	20	0 7 0	0 16 6	0 7 0	0 16 6	
	50	1 0 6	1 10 6	0 11 0	1 1 0	
	100	1 8 6	1 15 6	0 19 0	1 6 0	
If the Executor sworn in the Country by Commission.....	20	0 19 0	1 12 0	0 19 0	1 12 0	
	50	1 17 0	2 12 6	1 7 6	2 3 0	
	100	2 8 0	2 17 6	1 18 6	2 8 0	

TABLE OF FEES—continued.

ADMINISTRATIONS, AND ADMINISTRATIONS WITH WILL ANNEXED.											
	Under what Sum the Effects sworn.	Where the Deceased was a Warrant or Petty Officer in the Navy, or a Non-commissioned Officer of Marines.				Where the Deceased was a Common Seaman or Marine.				If the Administrator be more remotely related, or a Stranger in Blood to him.	Administrations with Will annexed.
		If the Administrator be a Wife, Child, Parent, Brother, or Sister of the Deceased.		If the Administrator be more remotely related, or a Stranger in Blood to him.		If the Administrator be a Wife, Child, Parent, Brother, or Sister of the Deceased.		If the Administrator be more remotely related, or a Stranger in Blood to him.			
		Administrations Intestate.	Administrations with Will annexed.	Administrations Intestate.	Administrations with Will annexed.	Administrations Intestate.	Administrations with Will annexed.	Administrations Intestate.	Administrations with Will annexed.		
If the Administrator sworn in London ...	£.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
	20	0 12 6	0 15 0	1 3 0	1 8 0	0 12 6	0 15 0	1 3 0	1 8 0	1 3 0	1 8 0
	50	2 5 6	2 9 0	2 16 0	3 2 0	0 16 0	0 19 6	2 6 6	2 12 6	2 6 6	2 12 6
	100	3 3 6	2 18 6	3 19 0	3 16 6	1 4 0	1 9 0	2 19 6	3 7 0	2 19 6	3 7 0
If the Administrator sworn in the Country by Commission.....	20	0 19 6	1 2 0	1 13 6	1 18 6	0 19 6	1 2 0	1 13 6	1 18 6	1 13 6	1 18 6
	50	2 17 0	3 0 6	3 13 0	3 19 0	1 7 6	1 11 0	3 3 6	3 9 6	3 3 6	3 9 6
	100	3 18 0	3 13 0	4 15 0	4 12 6	1 18 6	2 3 6	3 15 6	4 3 0	3 15 6	4 3 0

SCHEDULE (B.)

AN AGREEMENT made, pursuant to the Directions of an Act of Parliament passed in the Sixth Year of the Reign of His Majesty King William the Fourth, between the Master of the ship , of the Port of , and of the Burthen of tons, and the several Persons whose Names are subscribed thereto.

It is agreed by and on the part of the said persons, and they severally hereby engage, to serve on board the said ship in the said several capacities against their respective names expressed, which ship is to be employed in [*here the nature of the ship's employment is to be described, whether in the fisheries, on the coast, or in trading from one part of the United Kingdom to another, or to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest*]; and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master in every thing relating to the said ship, and the materials, stores, and cargo thereof, whether on board such ship, in boats, or on shore [*here may be inserted any other clauses which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to or inconsistent with the provisions and spirit of this act*]. In consideration of which services, to be duly, honestly, carefully, and faithfully performed, the said master doth hereby promise to pay to the said crew, by way of compensation or wages, the amount against their names respectively expressed: provided always, and it is hereby declared, that no seaman shall be entitled to his discharge from the ship during any voyage in which she may be engaged, nor at any other than a port in the United Kingdom. In witness whereof the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

[illegible]

Note.—Any embezzlement or wilful or negligent loss or destruction of any part of the ship's cargo or stores may be made good to the owner out of the wages (so far as they will extend) of the seaman guilty of the same; and if any seaman shall enter himself as qualified for a duty to which he shall prove to be not competent, he will be subject to a reduction of the rate of wages hereby agreed for in proportion to his incompetency.

6. Forms.

(2.) Information of mariner in merchant service against his master for refusing to pay wages on 5 & 6 Wil. 4, c. 19 (a).

County of } The information and complaint of A. I., late of , in the
 } county of , mariner, exhibited before me, J. P., Esq., one
 of his majesty's justices of the peace in and for the county of , and re-
 siding in and near [or, "near"] the place where one A. O. now is, the
 day of , in the year of our Lord one thousand eight hundred and ,
 who being sworn on his oath, says, that on the day of ,
 in the year of our Lord one thousand eight hundred and , he
 was hired by the said A. O., of , in the county aforesaid, master [or,
 "commander"] of a certain ship called the , to serve him in the merchant
 service [or, "coasting trade," as the case may be,] as a seaman [or "mariner," as
 the case may be], and not as an apprentice, or master, on board the said
 ship, from the port and place of in England, to the port of ,
 beyond the seas [or, "in Great Britain;" or, "for the term of ,"
 as the case may be], for the wages of per month [as the case may
 be], and that he the said A. I. has duly performed the said service
 and hiring for the term of [two months], and that he the said A. I., on
 the day of last, was discharged from the said hiring and ship
 by the said A. O. [as the case may be], at , in the said county of ;
 and that although [two days] from the time of the said [discharge] hath elapsed,
 and although no agreement hath been made or entered into to the contrary [as
 the case may be], he the said A. O. neglects and refuses to pay him the said
 A. I. the sum of , [not exceeding twenty pounds, ante, 458,] being the wages
 justly due unto him the said A. I. for the said service, contrary to the form of
 the statute in such case made and provided: and thereupon he the said A. I.
 prays that justice may be done, and that the said A. O. may be summoned before
 me, the justice aforesaid, to answer unto the said complaint.

A. I.

Before me, J. P.

(3.) Summons thereon (b).

County of } To the Constable of , in the said county.

Whereas information and complaint have been made unto me, J. P., Esq.,
 one of his majesty's justices of the peace in and for the said county of ,
 upon the oath of A. I., late of , in the county of , mariner,
 that, &c. [here set forth the complaint, as in the preceding form]. These are there-
 fore to command you forthwith to summon the said A. O. to appear before me,
 at , in the said county of , on the day of
 [this present] month of , at the hour of , in the forenoon of
 the same day, to show cause why the said wages should not be paid. And be you
 then there to certify what you shall have done. Dated this day of ,
 in the year of our Lord one thousand eight hundred and .

(4.) Order for payment of the wages (c).

County of } Whereas information and complaint have been made unto me,
 } J. P., Esq., one of his majesty's justices of the peace in and for the
 said county of , and residing in and near [or, "near"] the place where
 one A. O. now is [or, state the justice's residence], upon the oath of A. I., late
 of , in the county of , mariner, that on the day of ,
 in the year of our Lord one thousand eight hundred and , he the said
 A. I. was hired by A. O., &c. [here state the complaint down to the words, "con-
 trary to the form of the statute," &c., inclusive, and then proceed as follows]:
 and whereas the said A. O., having appeared before me in pursuance of my
 summons for that purpose, hath not proved to me that the said wages justly due
 unto the said A. I. as aforesaid, have been duly paid unto him the said A. I., nor
 hath showed to me any just cause why the said wages should not be paid, and
 hath not paid the same [or, and whereas it appears to me upon the oath of A. C.,
 constable of aforesaid, that he the said A. C., by virtue of my summons
 to him directed, did duly summons the said A. O. to appear before me, at a
 certain time and place therein specified, to show cause why the said wages should

(a) See the enactment, ante, p. 458.

(c) As to orders in general, see title

(b) As to the summons in general, see "Order," Vol. III.

"Conviction," Vol. I.

not be paid, and the said A. O. hath neglected to appear according to the said summons, and hath not shown any cause why the said wages should not be paid, and hath not paid the same": I therefore, having duly examined into the truth and matter of the said complaint, by the oaths of the said A. I. and of the witnesses produced by him and the said A. O. respectively [as the case may be], and upon due consideration had thereof, do hereby adjudge, determine, and order, that he the said A. O., upon due notice hereof, do pay, or cause to be paid to him the said A. I., the sum of (a), which appears to me to be just and reasonable to be paid by him the said A. O. to him the said A. I., as and for his wages so due unto him as aforesaid. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and

J. P.

County of } To the Constable of .

(5.) Warrant of distress for non-payment (b).

Whereas A. I., late of , in the county of , mariner, has complained unto me, J. P., Esq. one of his majesty's justices of the peace in and for the county of , and residing, &c. [as in preceding forms], that on the day of , in the year of our Lord one thousand eight hundred and , he was hired by A. O., of, &c., [here state the complaint down to the words, "contrary to the form of the statute," &c. inclusive, and then proceed as follows]: and whereas the said A. O., having appeared before me in pursuance of my summons for that purpose, has not proved to me that the wages justly due unto the said A. I. as aforesaid, have been paid to him the said A. I., nor has showed any just cause why the same should not be paid, and has not paid the same: [or, "and whereas the said A. O. has been duly summoned by me to show cause why the said wages should not be paid; but he the said A. O. has neglected to appear according to the said summons, and has not showed any cause why the said wages should not be paid, and has not paid the same"]. I, therefore, the said justice, upon due examination and consideration had thereof on the day of , now last past, by writing, under my hand and seal, did thereupon adjudge, determine, and order that he the said A. O., upon due notice thereof, should pay or cause to be paid to him the said A. I., the sum of , which appeared to me to be just and reasonable to be paid by him the said A. O. to him the said A. I., as and for his wages so due unto him as aforesaid; and whereas it appears to me that the said A. O., on the said day of , now last past, had due notice of my said order, and that due demand of the said sum of was then made of him the said A. O., by him the said A. I., at , in the said county of , in which port the said ship now lies, but that he the said A. O. did not then pay nor has yet paid the same, nor any part thereof: these are therefore to command you to make distress of the goods and chattels of the said A. O., or other person having or taking the charge or command of the said ship or vessel called the , and if within the space of days next after such distress by you made, the said sum of , together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by the sale thereof, that you pay the said sum of , unto him the said A. I., rendering the overplus, [if any there be,] after deducting all the costs (c), charges, and expenses of any summonses, informations, complaints, hearings, warrants, and of such distress, and the keeping, appraisement, or sale thereof, or otherwise relating thereto, unto the person or persons whose goods and chattels shall be so distrained and sold. And in case sufficient distress shall not be found for payment and satisfaction of wages so ordered to be paid, and the same with such costs, charges, and expenses as aforesaid shall not be paid, that then you do certify the same to me, together with the return of this warrant. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and

J. P.

(a) Not exceeding 20*l.*, ante, p. 458. A separate order for costs should be made. *ral*, see title "**Distress under Justices' Warrant**," Vol. I.

(b) As to warrant of distress in gene- made by the magistrate.

(c) A separate order for costs should be

6. Forms.

County of } To the Constable of

(6.) Warrant of distress for the same on the ship, &c., in case other sufficient distress be not found, &c.

Whereas A. I., late of , in the county of , mariner, has complained unto me, J. P., Esq., one of his majesty's justices of the peace in and for the county of , and residing, &c., [as in Form No. 2,] that on the day of , in the year of our Lord one thousand eight hundred and , he was hired by A. O., of, &c., [here state the complaint down to the words "contrary to the form of the statute," &c. inclusive, and then proceed as follows]: and whereas the said A. O., having appeared before me in pursuance of my summons for that purpose, has not proved to me that the wages justly due unto the said A. I. as aforesaid, have been paid to him the said A. I., nor has showed any just case why the same should not be paid, and has not paid the same; [or, and whereas the said A. O. has been duly summoned by me, to show cause why the said wages should not be paid; but he the said A. O. has neglected to appear according to the said summons, and has not showed any cause why the said wages should not be paid, and has not paid the same;] I the said justice, therefore, upon due examination and consideration had thereof on the day of , now last past, by writing under my hand and seal, did thereupon adjudge, determine, and order that he the said A. O., upon due notice thereof, should pay or cause to be paid to him the said A. I. the sum of , which appeared to me to be just and reasonable to be paid by him the said A. O. to him the said A. I., being the wages so due unto him as aforesaid. And whereas it appears to me that the said A. O., on the said day of , now last past, had due notice of the said order, and that due demand of the said sum of was then made of him the said A. O. by the said A. I., at in the said county of , but that he the said A. O. did not then pay nor has yet paid the same, nor any part thereof. And whereas on the day of , I the said justice did issue my warrant to the constable of , to make distress of the goods and chattels of the said A. O., or other person having or taking the charge or command of the said ship or vessel called the , and to levy the said sum of , and to pay the same according to the directions of the statute. And whereas it duly appears unto me, the said justice, as well upon the oath of the said constable of , as otherwise, that he the said constable of , has used his best endeavours to levy the said sum of , on the goods and chattels of the said A. O. as aforesaid, and other persons having or taking the charge or command of the said ship or vessel called the , but that no sufficient distress can be so found whereon to levy the same. These are therefore to command you to levy the amount of the wages so ordered to be paid, together with the costs, charges, and expenses of the summonses, informations, complaints, hearings, and warrants of distress respecting the same, on the said ship or vessel, for the service on board which such wages have been and are so ordered to be paid, or on any of the tackle, furniture, or apparel thereof; and if within the space of days after such distress by you made, the said sum for wages so ordered to be paid, and the said costs, charges, and expenses as aforesaid, together with the reasonable charges of taking the said distress, shall not be paid, that then you do sell the said ship, tackle, furniture, or apparel thereof, so by you distrained; and out of the money arising by such sale, that you pay the said amount of the wages so ordered to be paid, together with the costs, charges, and expenses of the summonses, informations, complaints, hearings, and warrants of distress respecting the same, unto him the said A. I., rendering the overplus thereof [if any], upon demand, unto the master or commander, or owner thereof, the reasonable charges of taking, keeping, and selling the said distress, being thereout first deducted. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and J. P. (L. S.)

Indictment for forcing seamen on shore, &c. see Forms, title "Assault," Vol. I.

Search-Warrant.

BY 7 & 8 Geo. IV. c. 29, (the Larceny Consolidation Act,) s. 63, "If any credible witness shall prove, upon oath before a justice of the peace, a reasonable cause to suspect that any person has in his possession, or on his premises, any property whatsoever, on or with respect to which any such offence (a) shall have been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods; and any person, to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required to apprehend and forthwith to carry before a justice of the peace the party offering the same, together with such property, to be dealt with according to law." Search-warrants.

As to felonies, this new enactment makes no alteration in the law; but as to *misdemeanors*, it much extends the authority of the magistrate.

There are other statutes relative to coining, having in possession naval and military stores, and to the taking of idle and disorderly persons, in order to recruit the land forces and marines, containing powers to issue search-warrants; and under the Vagrant Act, 5 Geo. IV. c. 83, s. 8, a justice may order the trunks, bundles, &c. of vagrants to be inspected; and by sect. 13, he may grant his warrant to search lodging-houses, &c. suspected to conceal vagrants. See the respective titles. Other statutes.

By stat. 6 Geo. IV. c. 16, s. 29, "in all cases where it shall be made to appear to the satisfaction of any justice of peace in England or Ireland that there is reason to suspect and believe that property of the bankrupt is concealed in any house, premises, or other place not belonging to such bankrupt, such justice of peace is hereby directed and authorized to grant a search warrant to the person so deputed by the commissioners as aforesaid, and it shall be lawful for such person to execute the same in like manner, and such person shall be entitled to the same protection, as is allowed by law in execution of a search-warrant for property reputed to be stolen or concealed." (See *Sly v. Stevenson*, 2 C. & P. 464, *post*, 483.) In Bankruptcy.

As to the apprehension of the offenders themselves, see "*Arrest*," Vol. I., *post*, "*Warrant*," and the general provisions of the statutes, under titles "*Larceny*," and "*Malicious Injuries to Property*," Vol. III. Apprehension of offenders.

Although it hath been usual for justices to grant general warrants, to search all suspected places for stolen goods, and there is a precedent in *Dalton*, requiring the constable to search *all such suspected places as he and the party complaining shall think convenient*; yet such practice is generally condemned by the best authorities. Thus, Lord Hale, in his *Summary of Pleas of the Crown*, says, a general warrant to search all places for felonies or stolen goods, is not good. (*Hale's Sum.* 93.) Mr. Hawkins says: "I do not find any good authority, that a justice can justify sending a general warrant, to search all suspected houses in general for stolen goods: because such warrant seems to be illegal on the very face of it; for it would be extremely hard to leave it to the discretion of a common officer to arrest what persons, and search what houses, he thinks fit; and if a justice cannot legally grant a blank warrant for the arrest of a single person, leaving it to the party to fill up, surely he cannot grant such a general warrant, which might have the effect of a hundred blank warrants." (2 *Haw.* c. 13, s. 10, 17.) Again, Lord Hale, in his *History of the Pleas of the Crown*, expresseth himself thus: "I do take it, that a general warrant to search in all suspected places is not good, but only to search in such particular places where the" General warrants condemned.

(a) That is, any offence punishable by indictment under the act, for which see "*Larceny*," Vol. III.

Search
Warrant.

party assigns before the justice his suspicion, and the probable causes thereof; for these warrants are judicial acts, and must be granted upon examination of the fact." (2 *Hale*, 150.) "And therefore I take those general warrants dormant, which are many times made before any felony committed, are not justifiable, for it makes the party to be in effect the judge; and therefore searches made by pretence of such general warrants give no more power to the officer or party, than what they may do by law without them." (2 *Hale*, 150.)

As to a general warrant in the case of inspectors of weights and measures, see post "*Weights and Measures*."

Warrant not to
be granted upon
bare surmise.

Likewise, upon a *bare surmise*, a justice cannot make a warrant to break any man's house, to search for a felon, or for stolen goods; for the justices, being created by act of parliament, have no such authority granted to them by any act of parliament; and it would be full of inconvenience that it should be in the power of any justice of the peace, being a judge of record, upon a bare suggestion, to break the house of any person, of what state, quality, or degree soever, either in the day or night, upon such surmises. (4 *Inst.* 177.)

But may, on oath
of suspicion.

But in the case of a complaint, and *oath* made of goods stolen, and that the party suspects that goods are in such house, and shows the cause of his suspicion, the justice of peace may grant a warrant to search in those suspected places mentioned in his warrant, and to attach the goods, and the party in whose custody they are found, and bring them before him, or some other justice of peace, to give an account how he came by them, and farther to abide such order as to law shall appertain. (*Vide Dalt.* c. 169, p. 403; 2 *Hale*, 113, 150; 2 *Wils.* 291; and see the express provisions of the above 7 & 8 Geo. IV. c. 29, s. 63.)

However, a *positive* oath that a felony is *actually committed*, is not necessary to justify a magistrate in granting his warrant to search the premises and apprehend the person of a party suspected of felony. *Else v. Smith*, 1 *D. & R.* 97, *in error*; *et per Abbott*, C. J.:—"There are many cases in which a cautious man might not choose to swear that his property is stolen, and, nevertheless, he might have great reason to suspect a particular party, and the magistrate would be well warranted in granting his search-warrant. Suppose the case of a horse, which has been lost by its owner, and it is found in the possession of another person; the owner, in that case, might not like to take upon himself to swear that the horse has been stolen, for it might have strayed; but when he finds his horse concealed in the stable of another person, he may very naturally conclude it must have been stolen, from the circumstance of the concealment; and, therefore, he may very conscientiously swear he suspects it to have been stolen. If, under such circumstances, the magistrate is not authorized in issuing his search-warrant, it might happen, in many cases, that felonies would go undetected."

Form of warrant.

Lord *Hale* says, "It is fit that these warrants to search do express that search be made in the *day-time*; and though I will not say that they are unlawful without such restriction, yet they are very inconvenient without it; for many times, under pretence of searches made in the night, robberies and burglaries have been committed; and at best it creates great disturbances." (2 *Hale*, 150.)

But, in cases not of probable suspicion only, but of positive proof thereof, it is right to execute the warrant in the night-time, lest the offenders and goods also be gone before morning. (*Barl. Search-War.*)

Furthermore, such warrant ought to be directed to a constable, or other public officer, and not to any private person; though it is fit the party complaining should be present and assistant, because he knows his goods. (2 *Hale*, 150.)

It should also command, that the goods found, together with the party in whose custody they are taken, be brought before some justice of the peace, to the end that, upon further examination of the fact, the goods and the prisoner may be disposed of as the law directs. (2 *Hale*, 150.)

The search-warrant granted under the 6 Geo. IV. c. 16, s. 29, in bankruptcy, should not be so to any one but the messenger under the fiat. (*Sly v. Stevenson*, 2 C. & P. 464.)

So much for *granting* a search-warrant; next touching the *execution* of it. Execution of.

As regards the power of constables to act in any place within the jurisdiction of the justices who grant the warrant, see the 5 Geo. IV. c. 18, s. 6, tit. "Arrest," Vol. I.

Whether the stolen goods are in a suspected house or not, the officer and his assistants in the day-time may enter, the doors being open, to make search, and it is justifiable by the warrant. (2 *Hale*, 151; see further, "Warrant," *post*.)

If the door be shut, and, upon demand, it be refused to be opened by them within, if the stolen goods be in the house, the officer may break open the door. (2 *Hale*, 151.)

If the goods be not in the house, yet it seems the officer is excused that breaks open the door to search, because he searched by warrant, and could not know whether the goods were there till search made: but it seems that the party that made the suggestion is punishable in such case; for, as to him, the breaking of the door is, *in eventu*, lawful or unlawful,—to wit, lawful, if the goods are there; unlawful, if not there. (2 *Hale*, 151.)

The officer must strictly observe the directions of the warrant, and if he be directed to seize only stolen sugar, and seize tea, he will be a trespasser. (*Price v. Messenger*, 2 B. & P. 158; *Bell v. Oakley*, 2 M. & Sel. 261.)

So, a warrant, under the Vagrant Act, to search all suspected houses, for idle and disorderly persons, is strictly confined to persons of that description, and the officer will not be justified if he attempt to execute it in any other places than those intended by the statute. (1 *Leach*, 208.)

A warrant directing a search in a particular house only, would not justify a search in another.

Where a constable, having a warrant to search for specific articles alleged to have been stolen, found and took away those, and certain others supposed to have been also stolen, but which were not mentioned in the warrant, *and not likely to be of use in substantiating the charge of stealing the goods that were specified*, it was held that the constable was a trespasser. (*Crozier v. Cundey*, 9 D. & R. 224; 6 B. & C. 232.)

Where officers went with a search-warrant, and, at the desire of the party, gave it to him for his perusal, and he would not return it, it was held that they had a right to take it from him, and even to coerce his person to obtain the possession of it, provided they used no more violence than was necessary. (*R. v. Mitton*, 3 C. & P. 31.)

As to general search-warrants, see *ante*, 481.

On the *return* of the warrant executed, the justice hath these things to do. Return of the

As touching the *goods* brought before him, if it appear they were not stolen, they are to be restored to the possessor; if it appear they were stolen, they are not to be delivered to the proprietor, but deposited in the hands of the sheriff or constable, to the end the party robbed may proceed, by indicting and convicting the offender, to have restitution, (2 *Hale*, 151.)

As touching the *party* that had the custody of the goods, if they were not stolen, then he is to be discharged; if stolen, but not by him but by another, that sold or delivered them to him, if it appear that he was ignorant that they were stolen, he may be discharged as an offender, and bound over to give evidence as a witness against him that sold them; if it appear he was knowing they were stolen, he must be committed or bound over to answer the felony. (2 *Hale*, 152.)

County of } To the Constable of

Whereas it appears to me, J. P., Esq., one of the justices of our lord the king, assigned to keep the peace in the said county, by the information on oath of A. I., of , in the county aforesaid [yeoman], that [or, that he hath probable cause to suspect and doth suspect that] the following goods, to wit, Form of a search-warrant.

*Search
Warrant.*

, have, within days last past, by some person or persons unknown, been feloniously taken, stolen, and carried away, out of the house of the said A. I., at aforesaid, in the county aforesaid; and that the said A. I. hath probable cause to suspect, and doth suspect, that the said goods, or part thereof, are concealed in the [dwelling-house] of A. O., of , in the said county, [yeoman]: These are therefore, in the name of our said lord the king, to authorize and require you, with necessary and proper assistants, to enter in the day-time into the said [dwelling-house] of the said A. O., at aforesaid, in the county aforesaid, and there diligently to search for the said goods; and if the same, or any part thereof, shall be found upon such search, that you bring the goods so found, and also the body of the said A. O., before me, or some other of the justices of our said lord the king, assigned to keep the peace in the county aforesaid, to be disposed of and dealt withal according to law. Given under my hand and seal, at , in the said county, the day of , in the year of the reign of .

Search-warrant
on concealment
of bankrupt's
property.

County of }

To O. O., of , &c.

Whereas it appears to me, J. P., Esq., one of the justices of our lord the king, assigned to keep the peace in the said county of , by the information, on oath, of C. D., of , that there is reason to suspect and believe that property of B. B., a bankrupt, is concealed in the dwelling-house of J. K., at , in the county aforesaid: These are therefore, by virtue of the act of parliament passed in the sixth year of the reign of his late majesty King George the Fourth, to amend the laws relating to bankrupts, to authorize and require you, with necessary and proper assistants, to enter in the day-time into the said dwelling-house of the said J. K., at aforesaid, in the county aforesaid, and there diligently to search for the said property; and if any of the property of the said bankrupt shall be found upon such search, that you seize the same, to be disposed of and dealt with according to the provisions in the said act contained.

Given under my hand and seal at aforesaid, in the said county, the day of , in the year of our Lord 183 .

J. P. (L. S.)

Securities, Stealing of. See "Larceny," Vol. III. p. 671.

Seditious Meetings, &c. See "Riot," ante, p. 342 to 354;
"Libel," Vol. III.

Seduction. See "Abduction," Vol. I.—Conspiracy to seduce. See
"Conspiracy," Vol. I.—As to Solicitation of Chastity. See
"Lewdness," Vol. III.

Self-Defence. See "Assault," Vol. I., "Homicide," Vol. III.
p. 319.

Self-Murder. See "Homicide," Vol. III. p. 333; "Felo-de-se,"
Vol. II.

Servants.

As to *Apprentices*, see "*Apprentice*," Vol. I.

As to the *Employment of Labourers* in Agricultural districts, &c. see "*Poor*," Vol. IV.

As to the *Employment of Children in Factories*, see "*Factories*," Vol. II.

As to the *Settlement of Servants*, see "*Poor*," Vol. IV.

As to *Seamen*, see "*Seamen*," ante, 388.

Before noticing the various laws and regulations relative to servants, it is important to observe, that magistrates have not, as has frequently been supposed, any peculiar jurisdiction over *domestic* or *menial* servants; such jurisdiction is confined to servants in husbandry, manufacturers, journeymen, artificers, and labourers, and other such class of servants. See *post*. Justices have no peculiar jurisdiction over domestic servants.

I. *Who are to serve*, p. 486.

[5 Eliz. c. 4, s. 7, 28.]

II. *The Contract of Service and putting an end to*, p. 487.

[5 Eliz. c. 4, s. 5, 6; 55 Geo. III. c. 184.]

III. *Wages of Domestic Servants, Clerks, &c.*, p. 491.

IV. *Wages of Artificers, Labourers, &c.*, p. 493.

[53 Geo. III. c. 40; 1 & 2 Wil. IV. c. 36, 37.]

V. *Time of Working for Labourers in general, and their Continuance to work*, p. 501.

[5 Eliz. c. 4, s. 12, 13.]

VI. *Working in Harvest*, p. 502.

[5 Eliz. c. 4, s. 22, 23; 13 & 14 Car. II. c. 12, s. 3.]

VII. *Improperly Serving, or putting an end to Service of Labourers, &c.*, p. 503.

[5 Eliz. c. 4, s. 8, 9, 39, 45.]

VIII. *Testimonial on Labourers, &c. quitting Service*, p. 504.

[5 Eliz. c. 4, s. 10, 11.]

IX. *Labourers, &c. fleeing into another Shire*, p. 505.

[5 Eliz. c. 4, s. 47.]

X. *Disputes between Masters and Workmen in the Silk, Cloth, Woollen, Linen, Fustian, Cotton, Iron, Hat, Fur, Hemp, Flax, or Mohair Manufactures*, p. 505.

[13 & 14 Car. II. c. 15; 20 Car. II. c. 6; 8 & 9 Wil. III. c. 36; 7 Jac. I. c. 7; 1 Anne, st. 2, c. 18; 13 Geo. II. c. 8; 22 Geo. II. c. 27; 29 Geo. II. c. 33; 30 Geo. II. c. 12; 14 Geo. III. c. 25, 44; 15 Geo. III. c. 14; 17 Geo. III. c. 11, 55, 56; 58 Geo. III. c. 51; 5 Geo. IV. c. 96; 10 Geo. IV. c. 52.]

XI. *Disputes between Masters and Workmen in Leathern Manufactures*, p. 525.

[13 Geo. II. c. 8; 22 Geo. II. c. 27; 17 Geo. III. c. 56.]

XII. *Disputes between Masters and Workmen in the Bone and Thread-Lace Manufactures*, p. 527.

[19 Geo. III. c. 49.]

XIII. *Disputes between Masters and Workmen in the Manufactures of Clocks and Watches*, p. 528.

[27 Geo. II. c. 7.]

XIV. *Disputes between Paper-Makers and Workmen*, p. 531.

[5 Geo. IV. c. 95.]

1. *Who are to serve.*

- XV. *Disputes between Masters and Servants in Husbandry, Artificers, Calico-Printers, Handicraftsmen, Miners, Colliers, Keelmen, Pitmen, Glassmen, Potters, and other Labourers*, p. 531.
 [20 Geo. II. c. 19; 27 Geo. II. c. 6; 31 Geo. II. c. 11; 6 Geo. III. c. 25; 39 & 40 Geo. III. c. 77; 57 Geo. III. c. 122; 58 Geo. III. c. 51; 4 Geo. IV. c. 34.]
- XVI. *Disputes between Tailors and Workmen within the Bills of Mortality*, p. 542.
 [7 Geo. I. st. 1, c. 13; 5 Geo. IV. c. 95.]
- XVII. *Disputes between Shoemakers and Workmen within the Bills of Mortality*, p. 543.
 [9 Geo. I. c. 27.]
- XVIII. *Disputes between Bargemen, Watermen and Owners, &c. of Ships, &c. on the Thames, &c.* p. 544.
 [3 & 4 Wil. IV. c. 19, s. 49, 50.]
- XIX. *Arbitrations between Masters and Workmen*, p. 544.
 [5 Geo. IV. c. 96.]
- XX. *Combinations amongst Workmen or Masters*, p. 551.
 [5 Geo. IV. c. 96; 6 Geo. IV. c. 129.]
- XXI. *Assaults on Conspiracy to raise Wages*, p. 559.
 [9 Geo. IV. c. 31, s. 25.]
- XXII. *Assaults on Seamen, &c. to prevent them from Working*, p. 560.
 [9 Geo. IV. c. 31, s. 26.]
- XXIII. *Servants firing Houses*, p. 560.
 [6 Anne, c. 31; 14 Geo. III. c. 78.]
- XXIV. *Servants Stealing*, p. 560, see "*Larceny*." Vol. III.
- XXV. *When Master may beat his Servant*, p. 560.
- XXVI. *When Master may beat another in Defence of Servant, or Servant in Defence of Master*, p. 561.
- XXVII. *When Master liable for Servant's Acts*, p. 561.
- XXVIII. *Enticing away a Servant, and Right to his Inventions, Labour, &c.*, p. 563.
- XXIX. *Characters of Servants*, p. 565.
 [32 Geo. III. c. 56.]
- XXX. *Forms*, p. 568.

I. *Who are to serve.*

Who compellable to serve by the year in husbandry. p. 173.

BY the common law, no one is compellable to serve another.

As to who may be compelled to be apprentices, see "*Apprentice*." Vol. I.

By the 5 Eliz. c. 4, s. 7, "every person between the age of twelve years and the age of sixty years, not being lawfully retained, nor apprentice with any fisherman or mariner hunting the seas; nor being in service with any kidder or carrier of any corn, grain, or meal, for provision of the city of London, nor with any husbandman in husbandry, nor in any city, town corporate, or market-town, in any of the arts or sciences limited or appointed by this estatute to have or take apprentices; nor being retained by the year, or half the year at the least, for the digging, seeking, finding, getting,

melting, fining, working, trying, making of any silver, tin, lead, iron, copper, stone, sea-coal, stone-coal, moor-coal, or chark-coal; nor being occupied in or about the making of any glass; nor being a gentleman born; nor being a student or scholar in any of the universities, or in any school; nor having lands, tenements, rents, or hereditaments, for term of life, or of one estate of inheritance of the clear yearly value of 40s.; nor being worth in goods and chattels to the value of 10*l.*; nor having a father or mother then living, or other ancestor whose heir-apparent he is, then having lands, tenements, or hereditaments of the yearly value of 10*l.* or above, or goods or chattels of the value of 40*l.*; nor being a necessary or convenient officer or servant lawfully retained as is aforesaid; nor having a convenient farm or holding whereupon he may or shall employ his labour; nor being otherwise lawfully retained according to the true meaning of this estatute: shall, after the aforesaid last day of September now next ensuing, be compelled to be retained to serve in husbandry by the year with any person that keepeth husbandry, and will require any such person so to serve within the same shire where he shall be so required."

Sect. 24. "Two justices of peace, the mayor or other head officer of any city, borough, or town corporate, and two aldermen, or two other discreet burgesses of the same city, borough, or town corporate, if there be no aldermen, shall and may, by virtue hereof, appoint any such woman as is of the age of twelve years, and under the age of forty years and unmarried, and forth of service, as they shall think meet to serve, to be retained or serve by the year, or by the week or day, for such wages, and in such reasonable sort and manner as they shall think meet; and if any such woman shall refuse so to serve, then it shall be lawful for the said justices of the peace, mayor, or head officers, to commit such woman to ward, until she shall be bounden to serve as is aforesaid."

An infant of twelve years of age shall be bound by his covenant to serve in husbandry. (2 *F. N. B.* 168.)

A woman of such age shall also be bound to serve in husbandry by her covenant.

If a man take an infant or other out of another's service, he shall be punished, although the infant or other were not retained.

An infant, by his covenant, shall be bound to serve in husbandry, although he may spend 40s., or twelve marks, by the year.

II. The Contract of Service, and putting an end to.

The contract of service need not be in writing, unless the retainer is by the terms of the bargain to extend beyond a year, in which case a written agreement is necessary, in reference to the 29 Car. II. c. 3, s. 4. (*Bracegirdle v. Heald*, 1 *B. & Ald.* 722; *Chit. junr. Contr.* 456.) And it seems that a hiring for a year to commence at a future day, must be reduced into writing. (See *Snelling v. Lord Huntingfield*, 1 *C. M. & R.* 20; *Beeston v. Collyer*, 4 *Bingh.* 309; 12 *Moore*, 652, *S. C.*) A consideration and sufficient mutuality must appear on the face of the written agreement, if any. (*Lees v. Whitcomb*, 5 *Bingh.* 34; 2 *M. & P.* 86, *S. C.*)

By the retainer, the servant is in service presently by the law, although he cometh not into his master's service in deed: for the retainer is the proper inchoation of the service. (*Bro. Ab. Labourers*, pl. 9, c. 11; *Dalt.* c. 58; p. 140.)

By the 55 Geo. III. c. 184, a memorandum or agreement for the hire of any labourer, artificer, manufacturer, or menial servant, is exempt from stamp duty. (See *R. v. St. Paul's, Bedford*, 6 *T. R.* 452.)

Whether or not a contract by a party to remain in the service of his employer during the life of the former, is valid, may admit of some doubt. It would seem that such a contract is not illegal, although but slight damages would probably be given for violating so improvident a bargain. (See 1 *Bla. Com.* 424, n. 3, by *Christian*; *Chit. jun. on Contracts*, 458.)

2. *Contract of Service. Putting an end to.* If a person retain a servant generally, (except in the case of a domestic or menial servant,) without expressing any time, the law shall construe it to be for one year, for that retainer is according to law; (2 *Inst.* 42; *Burr. S. C.* 299, 513; see *Spain v. Arnott*, 2 *Stark.* 257; *Huttman v. Bullnois*, 2 *C. & P.* 511;) and this it seems is applicable to servants in husbandry. (*Id.*) And so of clerks, warehousemen, and servants in general; and the service cannot be put an end to before the end of the current year; (*Beeston v. Collyer*, 4 *Bing.* 309; 12 *Moore*, 552; 2 *C. & P.* 607, *S. C.*; *Fawcett v. Cash*, 3 *Nev. & M.* 177; 5 *B. & Adol.* 904; *Turner v. Robinson*, *Id.* 789; 2 *Nev. & M.* 829; *Huttman v. Bullnois*, 2 *C. & P.* 510; *Atkin v. Acton*, 4 *C. & P.* 208;) unless upon some ground of misconduct on the part of either party, as presently noticed. (*Id.*)

By the general understanding on the subject, and without an express agreement or understanding to the contrary, domestic or menial servants (a), though hired by the year, are subject to be dismissed or to depart at any time on a month's notice, given by either, or a month's pay by the master. (See *Fawcett v. Cash*, 3 *Nev. & M.* 177; 5 *B. & Ad.* 904, *per Littledale, J.*; *Robinson v. Hindman*, 3 *Esp.* 235; *Cutter v. Powell*, 6 *T. R.* 326.)

In *Nowlan v. Ablett*, 1 *Gale*, 72; 2 *C. M. & R.* 54, *S. C.*, a head gardener was engaged on an agreement that he should have yearly wages and a house to live in rent free. Several inferior gardeners were subject to his directions, and the house he lived in was not under the roof or a part of the master's dwelling-house. The jury having found that he was a menial servant, it was held the verdict was right, and that he was consequently liable to be discharged on a month's notice.

By express agreement, either in writing or otherwise, the hiring may be for more or less than a year.

A hiring at 6s. per week for the winter, and 9s. per week for the summer, is not a yearly hiring. (*R. v. Inhabitants of Warminster*, 6 *B. & C.* 77; 9 *D. & R.* 70, *S. C.*) And as to quarterly payments being evidence of a quarterly hiring, see *Collins v. Price*, 5 *Bing.* 132; 2 *Moo. & P.* 233.

Proof that the servant was to have wages "at the rate of" 80l. per annum, has been held sufficient presumptive proof of the hiring being for a year. (*Turner v. Robinson*, 2 *Nev. & M.* 829; 5 *B. & Ad.* 789.)

A quarter's warning to be given to husbandry servants,

unless reasonable cause against it.

By the 5 *Eliz. c. 4, s. 5, 6*, (many of the provisions of which are repealed by the 49 *Geo. III. c. 109*, see "*Apprentices*," Vol. I.) no person which shall retain any servant shall put away his said servant, and no person retained according to this statute shall depart, before the end of his term, unless it be for some reasonable cause, to be allowed before one justice, or mayor or other chief officer, of the town corporate wherein the master inhabiteth, to whom the party grieved shall complain: and no master shall put away any such servant at the end of his term, nor shall any such servant depart at the end of his term, without one quarter's warning, on pain hereafter ensuing.

But the power of the justices under this act is confined to servants employed in husbandry. (*R. v. Inhabitants of Hulcot*, 6 *T. R.* 583.)

Implied promise to obey commands.

The servant impliedly promises to obey the lawful and reasonable commands of his master within the scope of the services contracted for. (*Per Cur.* in *R. v. St. John, Devizes*, 4 *Man. & Ry.* 681; 9 *B. & Cres.* 900, 901.)

Putting an end to service for misconduct.

In all cases except apprenticeships in general, (*Winstone v. Linn*, 1 *B. & C.* 460; 2 *D. & R.* 465, *S. C.*), if either party be guilty of misconduct towards the other, or, in other words, if he break the contract of hiring,

(a) "Menials, or menial servants (a derivative from *mœnia*, signifying the walls of a house, or other place), are household servants, such as live within the walls of their master's house, mentioned in the stat. 2 *Hen. IV. c. 21*," — *Cowell's Law Dict.* By the stat. 2 *Hen. IV. c. 7*, the giving of liveries is prohibited, "save that the king shall give

only his honourable livery to his lords temporal who shall please him, and also to his knights, and esquires *menial*, and which be of his retinue, and do take of him their yearly fee for term of life;" and by c. 21, it is enacted, that the "prince may give his honourable livery (a swan) to his *menial gentlemen*." (1 *Gale*, 72, n.)

the other may put an end thereto and the service. But he must, it should seem, put an end thereto within a reasonable time after the misconduct, and not waive the right to put an end to it by any delay.

2. *Contract of Service. Putting an end to.*

As to what shall amount to sufficient misconduct for this purpose, must depend on the particular circumstances of each case. The servant, as already observed, impliedly contracts to obey the lawful and reasonable orders of his master within the scope of the services contracted for.

In the case of *Spain v. Arnott*, Ld. Ellenborough, C. J., at N. P., held, that if a servant hired for a year *refuse to obey his master's orders*, the master is justified in dismissing him before the end of the year, and the servant cannot recover any wages. (*Spain v. Arnott*, 2 Stark. N. P. 256.) This was an action brought by the plaintiff to recover wages for his service from Michaelmas to July. The plaintiff was a yearly servant to the defendant, who was a farmer. The plaintiff usually breakfasted at five o'clock in the morning, and dined at two. One day the master ordered the servant to go with the horses to the marsh, which was a mile off, before dinner, dinner being then ready. The plaintiff said, that he had done his due, and would not go till he had had his dinner: the defendant told him to go about his business, and the plaintiff went accordingly, without offering any submission, or to obey his master's orders. On the part of the defendant, it was contended, that the action was not maintainable, since the contract was a year's service in husbandry, which had not been performed. *Scarlett*, for the plaintiff, contended that, if the master had had any reason to complain of the conduct of the servant, he ought to have complained to a magistrate for relief. That the master could not, by turning the servant away before the completion of the year, dissolve the contract, and bereave him of his wages; it would be exceedingly hard if he could, for then he might put an end to the contract on the very last day. Ld. Ellenborough, C. J.: "If the contract be for a year's service, the year must be completed before the servant is entitled to be paid. If the plaintiff persisted in refusing to obey his master's orders, I think he was warranted in turning him away. He might have obtained relief by applying to a magistrate; but he was not bound to pursue that course, the relation between master and servant, and the laws by which that relation is regulated, existed long before that statute. There is no contract between the parties, excepting that which the law makes for them; and it may be hard upon the servant, but it would be exceedingly inconvenient if the servant were to be permitted to set himself up to controul his master in his domestic regulations, such as the time of dinner. After a refusal on the part of the servant to perform his work, the master is not bound to keep him on, as a burdensome and useless servant, to the end of the year. In the present instance, it might be very convenient for the master to change the hour of dinner: the question really comes to this—whether the master or the servant is to have the superior authority?"—A juror was afterwards withdrawn by consent.

Disobeying orders.

Where a courier or valet drove the plaintiff's family to an hotel where he had been desired not to stop, and had been occasionally sulky and negligent and once insolent in his manner, it was considered a sufficient ground for dismissing him. (*Callo v. Brouncker*, 4 C. & P. 518.)

Sulky and negligent.

A servant betraying the secrets of his master would be guilty of misconduct, for which he might be discharged. (See per Best, C. J., in *Beeston v. Collyer*, 2 C. & P. 609.)

Betraying secrets.

Being absent when wanted, sleeping from home at night repeatedly without his master's leave, &c., is a sufficient cause for dismissal. (*Robinson v. Hindman*, 3 Esp. 235; and see *Crawford v. Reid*, 1 Show. P. C. 124.)

Absence.

Where a clerk and traveller, hired by the year, assaulted his employer's maid servant, with intent to take liberties with her against her consent, it was held to be a good cause of immediate dismissal. (*Atkin v. Acton*, 4 C. & P. 208.)

Assaulting female servant.

In the case of *R. v. Brampton*, Cald. 11, the principal question was, whether a maid servant hired for a year could be discharged by her master three weeks before the end of the year (*she being with child*), by his own

Being with child.

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authority, without the intervention of a magistrate, so as to prevent her gaining a settlement. By *Ld. Mansfield, C. J.*: "The question is, has the master done right or wrong in discharging his servant for this cause? I think he did not do wrong. Shall the master be bound to keep her in his house? To do so would be *contra bonos mores*; and, in a family where there are young persons, both scandalous and dangerous." *Willes, J.*, said, that "This case differs from those of *R. v. Richmond, Burr. S. C. 740*, and *R. v. Islip, 1 Str. 423* (see "*Poor, Settlement by Service*, Vol. IV.), where the cause of the discharge of the servant by the master was not reasonable. Here, if the master had daughters, it would not be fit that he should keep such a servant, though I think he could not avail himself of the authority of a magistrate, the jurisdiction of justices being confined to cases in husbandry" (a).

Alleged criminality.

Where the master discharged a yearly servant on account of a *supposed* criminal intimacy with a servant girl, who had previously left the service big with child, the Court of King's Bench seemed clear, that if the criminality had really existed, the case would have come within the principle of the above case of *R. v. Brampton. (R. v. Welford, Cald. 57.)*

Previous immorality.

But in *R. v. Westmeon, Cald. 129*, it was said by *Ld. Mansfield, C. J.*, that the servant being the father of a bastard child, prior to the master's hiring him, and the crime not committed when in his own house, the master shall not discharge him under this pretence: it is not a debauching of his servant, or turning his house as it were into a brothel.

When a magistrate discharges a labouring or other such servant from the service of his master, it must appear on the face of the order itself to be a case within the jurisdiction of the magistrate. (*R. v. Hulcott, 6 T. R. 583.*)

Insanity.

It does not appear to be settled whether the insanity of a servant be a good cause for discharging him. In *R. v. Sutton, 5 T. R. 659*, *Ld. Kenyon, C. J.*, appeared to be of opinion that insanity was not a legal cause for discharging a servant; but this opinion being cited and relied upon in a subsequent case (*R. v. Inh. of Hulcott, 6 T. R. 587*), his lordship said, "I am not prepared to go that length; in that case there had been no application to a magistrate to discharge, and I think that the master could not of his own authority discharge the servant for that cause."

(a) Upon which case *Mr. Caldecott* observes, that all that seems established by this case is, that a master may, without the intervention of a magistrate, dismiss his servant for moral turpitude, even though it be not such for which the servant may be prosecuted at common law. Whether he may or not for any other species of misconduct or general misbehaviour, though there are authorities to show that he cannot, seems, from this case, not to be fully and absolutely settled. By the general practice throughout the kingdom, and particularly in large towns, this power, however warranted, is exercised by masters; certainly, this question has not of late years been brought before the court for argument, except in the case of *Burrow v. Sayer, T. T. 27 Geo. II.* But at the sittings at *Westminster, 1773*, it arose before *Ld. Mansfield*. A wet-nurse retained for the year, was discharged by her mistress, who tendered her her wages in proportion to the time she had served: this was refused, and the action brought

for the whole year. It was proved, on behalf of the defendant, that the plaintiff had been frequently insolent to her mistress, the defendant's wife; and was subject to violent fits of passion, in which she had several times frightened, and once awakened her mistress while sleeping, before her recovery. It was also proved, that these fits of passion must be injurious to her milk; and it was insisted, that all these circumstances amounted to reasonable cause, and even created a necessity, of discharging the plaintiff. But, per *Ld. Mansfield*, "No person can be judge in his own cause; and this first principle could never be meant to be overturned by any law or usage whatsoever;" and though it was stated as the general usage or practice in London, Westminster, and the environs, to dismiss servants with a month's wages, it was disregarded by the court, and the servant had a verdict for the whole year. *Temple v. Prescott*. But see, *ante, 487—post, 492*, as to this latter doctrine.

A servant's marrying is no reasonable cause for discharge, for it is not a 3. *Wages of misdemeanor*, and nothing else is a cause. (*Com. Dig. tit. "Justices of Domestic, Peace,"* (B. 63.) *Sed quære* as to nothing else being a cause. See *ante*, 490.) *Clerks, &c.*

If a woman who is a servant shall marry, yet she must serve out her time, and her husband cannot take her out of her master's service. (*Dalt. c. 58*; *Wood's Inst. b. 1, c. 6.*) *Servants marrying.*

If a married man and his wife do bind themselves to serve, they shall be compelled to serve according to their covenant or agreement. (*Dalt. c. 58.*)

If a servant retained for a year happen within the time of his service to fall sick, or to be hurt or disabled by the act of God, or in doing his master's business, yet the master must not, therefore, put such servant away, nor abate any part of his wages for such time. (*Dalt. c. 58, p. 141*; see further *Chandler v. Grieves*, 2 H. Bla. 606; *R. v. Winter*, *Dalt. Cald.* 298.) *Sickness.*

Sickness does not put an end to the service on the part of the servant, neither does it authorize the master to put him away. (*Per Le Blanc, J., R. v. Sudbrooke*, 1 *Smith's Rep.* 59.)

As to the liability to pay the doctor's bill, see *post*, 492.

A servant's embezzling his master's property, is a good ground for dismissal. (*Brown v. Croft*, *Chit. Gen. Prac.* 81.) *Embezzlement.*

A game-keeper guilty of disobedience, may be discharged as other servants, and his residence in a house by permission of the lord of a manor is lawful only whilst he is game-keeper. (*Litt. Rep.* 139; 16 *East*, 33.) *Gamekeeper, &c., holding a house.*

It may be observed that one of two partners, joint-tenants of a house where their joint business is carried on, has a right to authorize a joint-weekly servant to remain in the house, though the other partner has regularly given him a week's notice to leave his service. (*Donaldson v. Williams*, 1 C. & M. 345.) *Partnerships.*

We have already seen that a domestic or menial servant may be dismissed at any time, on giving him a month's warning, or a month's pay; *ante*, 488. *Domestic servant may be dismissed without cause, &c.*

The bankruptcy of the parties does not operate as a dissolution of the contract of service, and the certificate of the master under it discharges only from wages provable under the commission. (See *Thomas v. Williams*, 1 Ad. & Ell. 685. See the 6 Geo. IV. c. 16, s. 48, as to the payment of clerks and servants' wages in case of bankruptcy; and *Ex p. Gough*, 1 Mon. & B. 417; *Ex p. Humphreys*, *Id.* 413; *Ex p. Skinner*, *Id.* 417; and cases there cited.) *Bankruptcy of master.*

III. Wages of Domestic Servants, Clerks, &c.

The amount of wages of domestic servants, clerks, and others, is regulated by the contract entered into by them. *Wages of domestics and others.*

"It is clearly agreed that if a person retain a servant and agree to pay him so much by the day, month, or year, that the servant may have an action against the master on the contract, or against his executors, and that every such retainer will be presumed to be in consideration of wages, unless the contrary appear." (*Bac. Ab. Master and Servant* (n.); *Pinchon's case*, 9 Co. 88, a. b.; *Sands v. Leake*, 2 *Roll. Rep.* 269.)

But if there be no express or implied agreement for wages, as if the servant merely came on trial, or the like, he can claim none.

And in *Alfred v. Fitzjames*, 3 *Esp.* 3, it was held that a servant who comes over from the West Indies, where he had been a slave, and who continues in the service of his master in England, is not entitled to wages without an express agreement; and see *Wilkins v. Wells*, 2 C. & P. 231; *Osborn v. Governors of Guy's Hospital*, *Stra.* 728; *Le Sage v. Coussmaker*, 1 *Esp. R.* 188.

So, if A. agrees to serve B. as an apothecary's assistant at such salary as C. should think reasonable, and it appear that no application had been made

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to C. to fix any salary, A. cannot recover any thing for his services in an action for work and labour. (*Owen v. Bowen*, 4 C. & P., C. N. P. 93; and see *Taylor v. Brewer*, 1 M. & Sel. 290; *Jewry v. Busk*, 5 Taunt. 302; *Osborn v. Governors of Guy's Hospital*, Stra. 728; *Le Sage v. Coussmaker*, 1 Esp. 188.)

A domestic servant, hired in the general way, is entitled to his wages up to the time he serves, though he do not continue in the service, either from misconduct or otherwise, during the whole year; for such is the general understanding on the subject. (See *Cutler v. Powell*, 6 T. R. 326; admitted by Lord Kenyon in *Robinson v. Hindman*, 3 Esp. 235; 2 Selw. N. P. 1032.)

But this does not apply to clerks, warehousemen, and other servants, who must in general serve, or be ready and offer to serve, during the whole time of their engagement, whether by the year or otherwise; and if they do not, they are not entitled to wages not accrued due during the time of service or afterwards, for an entire contract cannot be apportioned. (*Turner v. Robinson*, 6 C. & P. 15; 5 B. & Ad. 789, S. C.; *Huttman v. Bullnois*, 2 C. & P. 510; per Ld. Ellenborough, 2 Stark. 256; and *Atkin v. Acton*, 4 C. & P. 208; *Robinson v. Hindman*, 3 Esp. 235; and see *Cutter v. Powell*, 6 T. R. 323, 326, as to death.)

In *R. v. Whittlebury*, 6 T. R. 467, Lawrence, J., says, "No money is due from the master to the servant until the completion of the year or the end of the service."

If the clerk or servant be improperly dismissed before the end of the year or other time of his hiring, he may, on showing his readiness to complete the service, recover wages for the full time of his hiring, on pleadings properly framed. (See *Archer v. Horner*, 3 C. & P. 349; *Gandell v. Pontigny*, 4 Camp. 375; 1 Stark. 198, S. C.; *Collins v. Price*, 2 M. & P. 233; 5 Bingham. 132, S. C.)

In *Dalt. c. 58*, p. 141, *Com. Dig. Justices*, (B. 63,) it is said, that if a servant (*id est*, a labourer, &c.) of his own accord shall depart from his master before his time expire, he shall lose all his wages. But if he depart with the consent of his master, he shall have his wages for the time he served.

Sickness.

A servant incapacitated from actual service during part of the time of his living, by sickness, is still entitled to wages during that period. (*Ante*, 491.)

But a master is not bound to provide a domestic or other servant with medical attendance and medicines during sickness; but if a servant fall sick, and the master call in his own medical man to attend such servant, or otherwise render himself liable, the master will be liable, and cannot deduct the charges for such medical attendance out of the servant's wages, unless there be a special contract between the master and servant to that effect. (*Sellon v. Norman*, 4 C. & P. 80; and see *Cooper v. Phillips*, *Id.* 581; *Newby v. Wiltshire*, 2 Esp. 739; *Wennall v. Adney*, 3 B. & P. 247; *Watling v. Walters*, 1 C. & P. 132; *sed vide Scarman v. Castell*, 1 Esp. 91.)

Breakages.

Against the claim for wages, the master cannot, without an express agreement to that effect, set off the value of goods lost or broken by the servant's carelessness, however gross. (See *Le Loir v. Bristow*, 4 Camp. 134.) The master's remedy, in such case, would be by cross action.

Clothes.

A servant, engaged at thirty guineas a year and a suit of clothes, was provided with a livery suit on his entering into the service. He was wrongfully turned away in the year: held, he could not maintain *trover* for the suit of clothes. (*Crocker v. Molyneux*, 3 C. & P. 470; and see *Archard v. Hornor*, *Id.* 349.)

Presumed payment.

If a servant has left his service for a considerable time, without claiming wages, the presumption is, that all his wages have been paid. (*Sellon v. Norman*, 4 C. & P. 80.) And in a case cited in 4 C. & P. 81, n., tried

some time back at Guildhall, which was an action by a workman at a sugar-refiner's, a witness proved that the plaintiff had worked there for more than two years. But *Abbott, C. J.*, said that he should direct the jury to presume that men employed in that way were regularly paid every Saturday night, unless some evidence was given on the part of the plaintiff to satisfy the jury that the plaintiff had, in point of fact, never been paid; and, as no such evidence was produced, the plaintiff was nonsuited. (And see 3 *Camp.* 10; 1 *Stark.* 136.)

4. *Wages of Artificers, Labourers, &c.*

IV. Wages of Artificers, Labourers, &c.

Amount of.]—By the 53 Geo. III. c. 40, after reciting the several acts of 5 Eliz. c. 4, 1 Jac. I. c. 6, and the Scotch acts of the twenty-second parliament of Jac. I. and the first parliament of Car. II., and that it is expedient that the powers given by the said acts, and by various other acts passed in the parliaments of Scotland, to justices of the peace and magistrates of cities and boroughs, to rate wages or fix prices for work, for artificers, labourers, and craftsmen, should be repealed: it is therefore enacted, “that so much of the said recited acts, and of each of them, or of any other act of parliament in force in Scotland, as authorizes and empowers any justices of the peace or magistrates of cities and burghs to rate wages or fix prices of work for *artificers, labourers, and craftsmen*, shall be and the same is hereby repealed; and all orders heretofore made by any justice or justices of the peace or magistrates, in England or Scotland respectively, under the authority of the said recited acts, or any or either of them, for or in relation to the rating any wages, or settling or fixing any prices of work to be done or performed by any *artificers, labourers or craftsmen, or servants*, shall be and the same are hereby declared to be void and of none effect; any thing in the said acts, or any or either of them, to the contrary notwithstanding.”

Empowering magistrates to fix wages, repealed.

Orders made by magistrates under such acts, repealed.

The amount of such servants' wages, therefore, remains regulated as at common law, viz. by the agreement between the parties.

Mode of paying the wages of artificers, labourers, &c.]—By the 1 & 2 Wil. IV. c. 36, intituled “An Act to repeal several Acts and Parts of Acts prohibiting the Payment of Wages in Goods, or otherwise than in the current Coin of the Realm,” [15th October, 1831,] reciting that, “By certain provisions contained in an act of parliament passed in the fourth year of the reign of king Edward the Fourth, intituled ‘An Act for improving the Manufacture of Cloths, and preventing the Importation thereof;’ and by certain provisions of an act passed in the eighth year of the reign of queen Elizabeth, intituled ‘An Act touching Drapers, Cottoners, and Frizers in the Town of Shrewsbury:’ and whereas by certain provisions of an act of parliament passed in the fourteenth year of the reign of queen Elizabeth, intituled ‘An Act for the Repeal of a Statute made Anno Octavo of the Queen's Majesty's Reign, touching the Town of Shrewsbury;’ and by certain provisions of an act passed in the first year of the reign of her late majesty queen Anne, intituled ‘An Act for the more effectual preventing the Abuses and Frauds of Persons employed in the working up the Woollen, Linen, Fustian, Cotton, and Iron Manufactures of this Kingdom;’ and by certain other provisions of an act passed in the ninth year of the reign of her said late majesty queen Anne, intituled ‘An Act for reviving and continuing an Act made in the First Year of Her Majesty's Reign, for the more effectual preventing Abuses and Frauds of Persons employed in the working up the Woollen, Linen, Fustian, Cotton, and Iron Manufactures of this Kingdom;’ and by certain other provisions of an act passed in the tenth year of the reign of her said late majesty queen Anne, intituled ‘An Act for regulating, improving, and encouraging the Woollen Manufacture of Mixed and Medley Broad Cloth, and for the better payment of the Poor employed therein;’ and by certain other provisions of an act passed in the first year of the reign of his late majesty king George the first, intituled ‘An Act to make an Act of the Tenth Year of

Mode of paying wages.

1 & 2 Wil. 4, c. 36.

4 Ed. 4, c. 1.

8 Eliz. c. 7.

14 Eliz. c. 12.

1 Ann. c. 18.

9 Ann. c. 30.

10 Ann. c. 16.

1 Geo. 1, c. 15.

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1 & 2 Wil. 4, c. 36.

12 Geo. 1, c. 34.

13 Geo. 1, c. 23.

13 Geo. 2, c. 8.

22 Geo. 2, c. 27.

29 Geo. 2, c. 33.

30 Geo. 2, c. 12.

17 Geo. 3, c. 56.

19 Geo. 3, c. 49.

57 Geo. 3, c. 115.

her late Majesty, intituled, An Act for regulating, improving, and encouraging of the Woollen Manufacture of Mixed or Medley Broad Cloth, and for the better payment of the Poor employed therein, more effectual for the benefit of trade in general; and also to render more effectual an act of the Seventh Year of her said Majesty's Reign, intituled, An Act for the better ascertaining the Lengths and Breadths of Woollen Cloth made in the County of York; and by certain other provisions of an act passed in the twelfth year of the reign of his late majesty king George the First, intituled 'An Act to prevent unlawful Combinations of Workmen employed in the Woollen Manufactures, and for better Payment of their wages; and by certain other Provisions of an act passed in the thirteenth year of the reign of his said late majesty king George the First, intituled 'An Act for the better Regulation of the Woollen Manufacture, and for preventing Disputes among the Persons concerned therein, and for limiting a Time for prosecuting for the Forfeiture appointed by an Act of the Twelfth Year of his Majesty's Reign, in case of Payment of the Workmen's Wages in any other Manner than in Money; and by certain other provisions of an Act passed in the thirteenth year of the reign of his late majesty king George the Second, intituled 'An Act to explain and amend an Act made in the First Year of the Reign of her late Majesty Queen Anne, intituled, An Act for the more effectual preventing the Abuses and Frauds of Persons employed in the working up the Woollen, Linen, Fustian, Cotton, and Iron Manufactures of this Kingdom, and for extending the said Act to the Manufactures of Leather; and by certain other provisions of an act passed in the twenty-second year of the reign of his said late majesty king George the Second, intituled 'An Act for the more effectual preventing of Frauds and Abuses committed by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, and Silk Manufactures, and for preventing unlawful Combinations of Journeymen Dyers and Journeymen Hotpressers, and of all Persons employed in the said several Manufactures, and for the better Payment of their Wages; and by certain provisions of an act passed in the twenty-ninth year of the reign of his said late majesty king George the Second, intituled 'An Act to render more effectual an Act passed in the Twelfth Year of the Reign of his late Majesty King George, to prevent unlawful combinations of Workmen employed in the Woollen Manufactures, and for better payment of their Wages; and by certain other provisions of an act passed in the thirtieth year of the reign of his said late majesty king George the Second, intituled 'An Act to amend an Act made in the Twenty-ninth Year of the Reign of his present Majesty, intituled, An Act to render more effectual an Act passed in the Twelfth Year of the Reign of his late Majesty King George, to prevent unlawful Combinations of Workmen employed in the Woollen Manufactures, and for better payment of their Wages; and also an Act passed in the Thirteenth Year of the Reign of his said late Majesty, for the better Regulation of the Woollen Manufacture, and for preventing Disputes among the Persons concerned therein, and for limiting a Time for prosecuting for the Forfeiture appointed by the aforesaid Act, in case of Payment of the Workmen's Wages in any other Manner than in money; and by certain other provisions of an Act passed in the seventeenth year of his late majesty king George the Third, intituled 'An Act for amending and rendering more effectual the several Laws now in being for the more effectual preventing of Frauds and Abuses by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, and Silk Manufactures, and also for making Provisions to prevent Frauds by Journeymen Dyers; and by a certain act passed in the nineteenth year of the reign of his said late majesty king George the Third, intituled 'An Act to prevent Abuses in the Payment of Wages to Persons employed in the Bone and Thread Lace Manufactory; as well as by two other acts of the fifty-seventh year of the reign of his majesty king George the Third, the one intituled 'An Act to extend the Provisions of an Act of the Twelfth Year of his late

Majesty King George the First, and an Act of the Twenty-second Year of his late Majesty King George the Second, against Payment of Labourers in Goods or by Truck, and to secure their Payment in the lawful Money of this Realm, to Labourers employed in the Manufacture of Articles made of Steel and Iron combined, and of Plated Articles, or of other Articles of Cutlery,' and the other intituled 'An Act to extend the Provisions of an Act of the Twelfth Year of his late Majesty King George the Third, and an Act of the Twenty-second Year of his late Majesty King George the Second, against Payment of Labourers in Goods or by Truck, and to secure their Payment in the lawful Money of this Realm, to Labourers employed in the Collieries or in the working and getting of Coal in the United Kingdom of Great Britain and Ireland, and for extending the Provisions of the said Acts to Scotland and Ireland:' And whereas by an act passed in the Fifth-eighth year of the reign of his late majesty king George the Third, intituled 'An Act to amend certain Acts passed in the Fourth Year of King Edward the Fourth, First and Tenth Years of Queen Anne, First, Twelfth, and Thirteenth Years of King George the First, Thirteenth, Twenty-second, and Twenty-ninth Years of King George the Second, and Thirteenth and Fifty-seventh Years of King George the Third, prohibiting the Payment of the Wages of Workmen in certain Trades otherwise than in the lawful Coin or Money of this Realm,' provision is made respecting the payment of the wages of workmen in certain trades and occupations in the aforesaid acts enumerated: And whereas it is expedient to consolidate the law respecting the payment of the wages of workmen in the several trades and occupations in the said recited acts and herein-after mentioned, and for that purpose to repeal the said acts, or so much thereof as hereinafter mentioned:" it is enacted, "that the said acts so passed as aforesaid in the nineteenth and the fifty-seventh and fifty-eighth years of his said late majesty king George the Third, and so much of the said several other recited acts as regulates or relates to the payment of the wages of workmen in the several trades and occupations therein enumerated in goods or by way of truck, shall be and the same are respectively hereby repealed."

4. *Wages of Artificers, Labourers, &c.*

1 & 2 Wil. 4, c. 36.

57 Geo. 3, c. 122.

58 Geo. 3, c. 51.

Repeal of existing statutes as to the payment of wages in goods;

Sect. 2. "Provided always, that nothing herein contained shall or doth extend to repeal any provisions contained in any of the said recited acts respecting the recovery by any workmen or labourers of the wages of their labour, or to deprive any such workmen or labourers of any remedies now by law provided for the recovery of any such wages; and provided also, that all offences committed against, and all penalties incurred under the said recited acts or any of them, shall and may be prosecuted, sued for, recovered, and applied in the same manner as if this present act had not been made; and provided also, that nothing herein contained shall extend or be construed to revive any act or any part of any act of parliament which hath heretofore been repealed by any of the said recited acts."

except as to recovery of wages, prosecution of offences, recovery of penalties, &c.

By the 1 & 2 Wil. IV. c. 37, intituled "An Act to prohibit the Payment, in certain Trades, of Wages in Goods, or otherwise than in the current Coin of the Realm," [15th October, 1831,] reciting that "it is necessary to prohibit the payment, in certain trades, of wages in goods, or otherwise than in the current coin of the realm;" it is enacted, "that in all contracts hereafter to be made for the hiring of any artificer in any of the trades hereinafter enumerated, or for the performance by any artificer of any labour in any of the said trades, the wages of such artificer shall be made payable in the current coin of this realm only, and not otherwise; and that if in any such contract the whole or any part of such wages shall be made payable in any manner other than in the current coin aforesaid, such contract shall be and is hereby declared illegal, null, and void."

1 & 2 Wil. 4, c. 37.

Contracts for hiring of artificers must be made in current coin of realm;

Sect. 2. "If in any contract hereafter to be made between any artificer in any of the trades hereinafter enumerated, and his employer, any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom, the whole or any part of the wages due or to become due to any such artificer shall be laid out or

and must not contain stipulations as to manner in which wages shall be expended.

4. *Wages of Artificers, Labourers, &c.*

1 & 2 Wil. 4, c. 37.

All wages must be paid to the workman in coin. Payment in goods declared illegal.

Artificers may recover wages, if not paid in the current coin.

In an action brought for wages no set-off shall be allowed for goods supplied by the employer, or by any shop in which the employer is interested.

No employer shall have any action against his artificer for goods supplied to him on account of wages.

If the artificer or his wife or children become chargeable to the parish, the overseers may recover any wages earned within the three preceding months, and not paid in cash.

Not to invalidate payment of wages in bank notes, if artificer consents.

expended, such contract shall be and is hereby declared illegal, null, and void."

Sect. 3. "The entire amount of the wages earned by or payable to any artificer in any of the trades hereinafter enumerated, in respect of any labour by him done in any such trade, shall be actually paid to such artificer in the current coin of this realm, and not otherwise; and every payment made to any such artificer by his employer, of or in respect of any such wages, by the delivering to him of goods, or otherwise than in the current coin aforesaid, except as hereinafter mentioned, shall be and is hereby declared illegal, null, and void."

Sect. 4. "Every artificer in any of the trades hereinafter enumerated shall be entitled to recover from his employer in any such trade, in the manner by law provided for the recovery of servants' wages, or by any other lawful ways and means, the whole or so much of the wages earned by such artificer in such trade as shall not have been actually paid to him by such his employer in the current coin of this realm."

Sect. 5. "In any action, suit, or other proceeding to be hereafter brought or commenced by any such artificer as aforesaid, against his employer, for the recovery of any sum of money due to any such artificer as the wages of his labour in any of the trades hereinafter enumerated, the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods, wares, or merchandise had or received by the plaintiff as or on account of his wages or in reward for his labour, or by reason or in respect of any goods, wares, or merchandise sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest."

Sect. 6. "No employer of any artificer in any of the trades hereinafter enumerated shall have or be entitled to maintain any suit or action in any court of law or equity against any such artificer, for or in respect of any goods, wares, or merchandise sold, delivered, or supplied to any such artificer by any such employer, whilst in his employment, as or on account of his wages or reward for his labour, or for or in respect of any goods, wares, or merchandise sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest."

Sect. 7. "If any such artificer as aforesaid, or his wife or widow, or if any child of any such artificer, not being of the full age of twenty-one years, shall become chargeable to any parish or place, and if within the space of three calendar months next before the time when any such charge shall be incurred such artificer shall have earned or have become entitled to receive any wages for any labour by him done in any of the said trades, which wages shall not have been paid to such artificer in the current coin of this realm, it shall be lawful for the overseers or overseer of the poor in such parish or place to recover from the employer of such artificer in whose service such labour was done the full amount of wages so unpaid, and to proceed for the recovery thereof by all such ways and means as such artificer himself might have proceeded for that purpose; and the amount of the wages which may be so recovered shall be applied in reimbursing such parish or place all costs and charges incurred in respect of the person or persons to become chargeable, and the surplus shall be applied and paid over to such person or persons."

Sect. 8. "Provided always, that nothing herein contained shall be construed to prevent or to render invalid any contract for the payment, or any actual payment, to any such artificer as aforesaid, of the whole or any part of his wages, either in the notes of the governor and company of the bank of England, or in the notes of any person or persons carrying on the business of a banker, and duly licensed to issue such notes in pursuance of the laws relating to his majesty's revenue of stamps, or in drafts or orders for the payment of money to the bearer on demand, drawn upon any person or persons carrying on the business of a banker, being duly licensed as afore-

said, within fifteen miles of the place where such drafts or orders shall be so paid, if such artificer shall be freely consenting to receive such drafts or orders as aforesaid, but all payments so made with such consent as aforesaid, in any such notes, drafts, or orders as aforesaid, shall for the purposes of this act be as valid and effectual as if such payments had been made in the current coin of the realm."

4. *Wages of Artificers, Labourers, &c.*

1. & 2 Will. 4, c. 37.

Sect. 9. "Any employer of any artificer in any of the trades hereinafter enumerated, who shall, by himself or by the agency of any other person or persons, directly or indirectly enter into any contract or make any payment hereby declared illegal, shall for the first offence forfeit a sum not exceeding ten pounds nor less than five pounds, and for the second offence any sum not exceeding twenty pounds nor less than ten pounds, and in case of a third offence any such employer shall be and be deemed guilty of a misdemeanor, and, being thereof convicted, shall be punished by fine only, at the discretion of the court, so that the fines shall not in any case exceed the sum of one hundred pounds."

Penalties on employers entering into contracts hereby declared illegal.

Sect. 10. "All offences committed against this act, and not hereinbefore declared a misdemeanor, shall be inquired of and determined, and that all fines and penalties for such offences shall be sued for and recovered by any person or persons who shall sue for the same, before any two justices of the peace having jurisdiction within the county, riding, city, or place in which the offence shall have been committed; and that the amount of the fines, penalties, and other punishments to be inflicted upon any such offenders shall, within the limits hereinbefore prescribed, be in the discretion of such justices, or, in cases of misdemeanor, of the court before which the offence may be tried; and in case of a second offence against this act, it shall be sufficient evidence of the previous conviction and offence, if a certificate, signed by the clerk of the peace or other officer having the custody of the record of such previous conviction, shall be produced before the said justices inquiring of such second offence, in which certificate shall be stated in a compendious form the general nature of the offence for which such previous conviction was had, and the date of such previous conviction; and so, in like manner, upon the trial of any indictment or information for any such misdemeanor as aforesaid, it shall be sufficient evidence of such second conviction for a like offence if a certificate thereof, signed by the clerk of the peace or other officer having the custody of the record of such second conviction, in such form as aforesaid, be produced to the court and jury: provided always, that no person shall be punished as for a second offence under this act unless ten days at the least shall have intervened between the conviction of such person for the first and the conviction by such person of the second offence, but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a first offence; and that no person shall be punished as for a third offence under this act, unless ten days at the least shall have intervened between the conviction of such person for the second and the conviction by such person of the third offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a second offence; and that the fourth or any subsequent offence which may be committed by any such person against this act shall be inquired of, tried, and punished in the manner hereinbefore provided in respect of any third offence; and that if the person or persons preferring any such information shall not be able or shall not see fit to produce evidence of any such previous conviction or convictions as aforesaid, any such offender as aforesaid shall be punished for each separate offence by him committed against the provisions of this act by an equal number of distinct and separate penalties, as though each of such offences were a first or a second offence, as the case may be; and that no person shall be proceeded against or punished as for a second or as for a third offence at the distance of more than two years from the commission of the next preceding offence."

Penalties how to be recovered.

Second offence.

Proviso.

Sect. 11. "It shall be lawful for any one justice of the peace, in all cases

Justices may com-

4. *Wages of Artificers, Labourers, &c.*

1 & 2 Wil. 4, c. 37.
 compel attendance of witnesses.

where any information or complaint shall be made as aforesaid, and he is hereby authorized and required, at the request in writing of any of the parties to the said complaint, and on the oath of the informer or complainant, or of the person informed or complained against, that he believes that the attendance of any person or persons as a witness or witnesses will be material to the hearing of such information, to issue his summons to any such person or persons, witness or witnesses, to appear and give evidence on oath before himself and such other justice or justices as shall hear and determine such information or complaint, the time and place of hearing and determining the same being specified in the said summons; and if any person or persons so summoned shall not appear before the said last-mentioned justices at the time or place so specified in the said summons, and shall not offer any reasonable excuse for the default, to the satisfaction of the said last-mentioned justices, or appearing according to the directions of the said summons shall not submit to be examined as a witness or witnesses, then and in every such case it shall be lawful for such last-mentioned justices, and they are hereby authorized, (proof on oath, in the case of any person not appearing according to such summons, having been first made before such last-mentioned justices of the due service of such summons on every such person, by delivering the same to him or to her, or by leaving the same at the usual place of abode of such person, twenty-four hours at the least before the time appointed for such person to appear before such last-mentioned justices,) by warrant under the hands and seals of such last-mentioned justices to commit such person or persons so making default in appearing, or appearing and refusing to give evidence, to some prison within the jurisdiction of the said justices, there to remain without bail or mainprize for any time not exceeding fourteen days, or until such person or persons shall submit to be examined and give evidence."

Power to levy penalties by distress (a).

Sect. 12. "All justices of the peace shall and are hereby empowered, on the conviction of any person or persons for any offence against this act, in default of payment of any penalty or forfeiture, together with the reasonable costs and charges attending such conviction, to cause the same to be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant or warrants under the hands and seals of such justices, together with the reasonable costs of such distress and sale; and in case it shall appear to the satisfaction of such justices, either by the confession of the offender or offenders or by the oath of one or more credible witness or witnesses, that he, she, or they hath not or have not goods and chattels within the jurisdiction of such justices sufficient whereon to levy all such penalties and forfeitures, costs and charges, such justices may, without issuing any warrant of distress, commit the offender or offenders to the common gaol for three calendar months (unless the same be sooner paid), in such manner as if a warrant of distress had been issued, and a return of *nulla bona* made thereon."

Commitment (b).

A partner not to be liable in person for the offence of his co-partner, but the partnership property to be so liable.

Sect. 13. "No person shall be liable to be convicted of any offence against this act committed by his or her copartner in trade, and without his or her knowledge, privity, or consent; but it shall be lawful, when any penalty, or any sum for wages, or any other sum, is ordered to be paid, under the authority of this act, and the person or persons ordered to pay the same shall neglect or refuse to do so, to levy the same by distress and sale of any goods belonging to any copartnership concern or business in the carrying on of which such charges may have become due or such offence may have been committed; and in all proceedings under this act to recover any sum due for wages it shall be lawful in all cases of copartnership for the justices, at the hearing of any complaint for the nonpayment thereof, to make an order upon any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of any summons or

(a) See Vol. I., title "*Distress under Justice's Warrant.*"

(b) See Vol. I., title "*Commitment in Execution.*"

other process, or of any order, upon one or more of such copartners, shall be deemed to be a sufficient service upon all."

Sect. 14. "In all cases it shall be deemed and taken to be sufficient service of any summons to be issued against any offender or offenders by any justice or justices of the peace, under the authority of this act, if a duplicate or true copy of the same be left at or upon the place used or occupied by such offender or offenders for carrying on his, her, or their trade or business, or at the place of residence of any such offender or offenders, being at or upon any such place as aforesaid, the same being directed to such offender or offenders, by his, her, or their right or assumed name or names."

4. *Wages of Artificers, Labourers, &c.*

1 & 2 Wil. 4, c. 37.
How summonses are to be served.

Sect. 15. "The justices before whom any person shall be convicted of any offence against this act, or by whom any person shall be committed to the common gaol, in default of a sufficient distress, or for not appearing as a witness or not submitting to be examined, shall cause all such convictions, and the summonses for the attendance of witnesses, and the warrants or orders for such commitments, and the warrant or order for any such distress, to be drawn up in the form or to the effect set forth in the schedule to this act annexed, with such additions or variations as may be necessary for adapting the same to the particular circumstances of the case."

Form of conviction and other proceedings (a).

Sect. 16. "The justices before whom any conviction shall be had under this act shall cause the same to be returned to the next general or quarter sessions of the peace holden for the county or place wherein the offence shall have been committed, and the same shall then and there be delivered to the clerk of the peace, or other person acting as such, to be by him filed among the records of the said court; and such clerk of the peace, or other person acting as such, is hereby required, on the tender and payment to him of the sum of one shilling, to grant to any person or persons, on demand, a copy of any such conviction, with a certificate thereupon indorsed or thereunto annexed, that the same is a true and accurate copy of the original conviction returned to such general or quarter sessions as aforesaid."

Justices to return convictions to clerk of peace, who is to deliver copies to persons applying.

Sect. 17. "No conviction, order, or adjudication made by any justices of the peace under the provisions of this act shall be quashed for want of form, nor be removed by *certiorari* or otherwise into any of his majesty's superior courts of record; and no warrant of distress, or of commitments in default of sufficient distress, shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same."

Convictions not to be quashed for want of form (b).

Sect. 18. "Out of any penalty or forfeiture incurred by any offence committed against this act it shall be lawful for the court or justices imposing the same to award any sum to the informer, not exceeding in any case the sum of twenty pounds; and the rest of any such pecuniary penalty or forfeiture shall go to the treasurer of the county in which the offence shall be committed, in aid of the rates of such county: provided always, that every proceeding whatsoever for any offence against this act shall be commenced within three calendar months after such offence shall have been committed."

Application of penalties.

Sect. 19. "Nothing herein contained shall extend to any artificer, workman, or labourer, or other person engaged or employed in any manufacture, trade, or occupation, excepting only artificers, workmen, labourers, and other persons employed in the several manufactures, trades, and occupations following; (that is to say,) in or about the making, casting, converting, or manufacturing of iron or steel, or any parts, branches, or processes thereof; or in or about the working or getting of any mines of coal, ironstone, limestone, salt rock; or in or about the working or getting of stone, slate, or

The trades to which the act is to apply.

(a) See as to clauses of this nature, Vol. I., title "*Conviction*."

(b) See Vol. I., title "*Conviction*."

4. *Wages of Artificers, Labourers, &c.*

1 & 2 Wil. 4, c. 37.

clay; or in the making or preparing of salt, bricks, tiles, or quarries; or in or about the making or manufacturing of any kinds of nails, chains, rivets, anvils, vices, spades, shovels, screws, keys, locks, bolts, hinges, or any other articles or hardwares made of iron or steel, or of iron and steel combined, or of any plated articles of cutlery, or of any goods or wares made of brass, tin, lead, pewter, or other metal, or of any japanned goods or wares whatsoever; or in or about the making, spinning, throwing, twisting, doubling, winding, weaving, combing, knitting, bleaching, dyeing, printing, or otherwise preparing of any kinds of woollen, worsted, yarn, stuff, jersey, linen, fustian, cloth, serge, cotton, leather, fur, hemp, flax, mohair, or silk manufactures whatsoever, or in or about any manufactures whatsoever made of the said last-mentioned materials, whether the same be or be not mixed one with another; or in or about the making or otherwise preparing, ornamenting, or finishing of any glass, porcelain, china, or earthenware whatsoever, or any parts, branches, or processes thereof, or any materials used in any of such last-mentioned trades or employments; or in or about the making or preparing of bone, thread, silk, or cotton lace, or of lace made of any mixed materials."

Domestics and servants in husbandry.

Certain persons not to act as justices.

County magistrates to act in cases where those of towns, &c., are disqualified as above.

Sect. 20. "Nothing herein contained shall extend to any domestic servant (a) or servant in husbandry."

Sect. 21. "No justice of the peace, being a person also engaged in any of the trades or occupations enumerated in this act, or the father, son, or brother of any such person, shall act as a justice of the peace under this act."

Sect. 22. "In all cities, boroughs, or corporate towns, where the magistrates for the time being are disqualified by the foregoing clause from administering this act, then and in every such case, and so often as the same shall happen, it shall be lawful for the magistrates of the county in which the offence may be committed (and not disqualified as aforesaid) to administer, and they are hereby authorized and empowered to hear, examine, and determine any offences committed against this act, in any such cities, boroughs, or corporate towns; and it shall be lawful for the complainant to remove the cases of information or complaint from the said cities, boroughs, or corporate towns to any other court of session or petty session not exceeding twelve miles from the place where the offence shall have been committed; any law, charter, usage, or custom to the contrary notwithstanding."

Particular exceptions to the generality of the law.

Sect. 23. "Nothing herein contained shall extend or be construed to extend to prevent any employer of any artificer, or agent of any such employer, from supplying or contracting to supply to any such artificer any medicine or medical attendance, or any fuel, or any materials, tools, or implements to be by such artificer employed in his trade or occupation, if such artificers be employed in mining, or any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such artificer in his trade and occupation; nor from demising to any artificer, workman, or labourer employed in any of the trades or occupations enumerated in this act the whole or any part of any tenement at any rent to be thereon reserved; nor from supplying or contracting to supply to any such artificer any victuals dressed or prepared under the roof of any such employer, and there consumed by such artificer; nor from making or contracting to make any stoppage or deduction from the wages of any such artificer, for or in respect of any such rent; or for or in respect of any such medicine or medical attendance; or for or in respect of such fuel, materials, tools, implements, hay, corn, or provender, or of any such victuals dressed and prepared under the roof of any such employer; or for or in respect of any money advanced to such artificer for any such purpose as aforesaid: provided always, that such stoppage or deduction shall not exceed the real and true value of such fuel, materials, tools, implements, hay, corn,

(a) As to who is, see *ante*, 488.

and provender, and shall not be in any case made from the wages of such artificer, unless the agreement or contract for such stoppage or deduction shall be in writing, and signed by such artificer."

Sect. 24. "Nothing herein contained shall extend or be construed to extend to prevent any such employer from advancing to any such artificer any money to be by him contributed to any friendly society or bank for savings duly established according to law, nor from advancing to any such artificer any money for his relief in sickness, or for the education of any child or children of such artificer, nor from deducting or contracting to deduct any sum or sums of money from the wages of such artificers for the education of any such child or children of such artificer, and unless the agreement or contract for such deduction shall be in writing, and signed by such artificer."

Sect. 25. "In the meaning and for the purposes of this act, all workmen, labourers, and other persons in any manner engaged in the performance of any work, employment, or operation, of what nature soever, in or about the several trades and occupations aforesaid, shall be and be deemed 'artificers;' and that within the meaning and for the purposes aforesaid, all masters, bailiffs, foremen, managers, clerks, and other persons engaged in the hiring, employment, or superintendence of the labour of any such artificers, shall be and be deemed to be 'employers;' and that within the meaning and for the purposes of this act, any money or other thing had or contracted to be paid, delivered, or given as a recompence, reward, or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, shall be deemed and taken to be the 'wages' of such labour; and that within the meaning and for the purposes aforesaid, any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and artificer are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a 'contract.'"

Sect. 26. "This act shall not commence or take effect till the expiration of three calendar months next after the day of passing the same."

Sect. 27. "The provisions of this act shall extend over the whole of that part of the United Kingdom of Great Britain and Ireland called Great Britain."

See the schedule, *post*.

Disputes as to wages.]—The 20 Geo. II. c. 19, 31 Geo. II. c. 11, and 4 Geo. IV. c. 34, and other acts, *post*, Sect. XV., relate to the settlement of disputes between masters and labourers.

5. *Time of Working for Labourers in general, &c.*

1 & 2 Wil. 4, c. 37.

Employers may advance money to artificers for certain purposes.

Definition of terms.

Commencement of act.

To extend over Great Britain.

Disputes as to wages.

V. Time of Working for Labourers in general, and their Continuance to Work.

By the 5 Eliz. c. 4, s. 12, "all artificers and labourers, being hired for wages by the day or week, shall, betwixt the midst of the months of March and September, be and continue at their work at or before five of the clock in the morning, and continue at work and not depart until betwixt seven and eight of the clock at night (except it be in the time of breakfast, dinner, or drinking, the which times at the most shall not exceed above two hours and a half in a day, that is to say, at every drinking one half-hour, for his dinner one hour, and for his sleep, when he is allowed to sleep, the which is from the midst of May to the midst of August, half an hour at the most, and at every breakfast one half-hour): and all the said artificers and labourers, between the midst of September and the midst of March, shall be and continue at their work from the spring of the day in the morning until the night of the same day, except it be in time before appointed for breakfast

How long labourers shall continue at their work.

6. *Working in Harvest.*

No artificer or labourer shall depart before his work be finished.

and dinner; upon pain to lose and forfeit one penny for every hour's absence, to be deducted and defaulted out of his wages that shall so offend."

Sect. 13. "Every artificer and labourer that shall be lawfully retained in and for the building or repairing of any church, house, ship, mill, or every other piece of work taken in great, in task, or in gross, or that shall hereafter take upon him to make or finish any such thing or work, shall continue and not depart from the same, unless it be for not paying of his wages or hire agreed on, or otherwise lawfully taken or appointed to serve the queen's majesty, her heirs, or successors, or for other lawful cause, or without licence of the master or owner of the work, or of him that hath the charge thereof, before the finishing of the said work; upon pain of imprisonment by one month, without bail or mainprize; and the forfeiture of the sum of 5*l.* to the party from whom he shall so depart; for the which the said party may have his action of debt against him that shall so depart, in any of the queen's majesty's courts of record, over and besides such ordinary costs and damages as may or ought to be recovered by the common laws, for or concerning any such offence: in which action no protection, wager of law, or essoin, shall be admitted."

VI. *Working in Harvest.*

Artificers compellable to work in hay-time and harvest.

By the 5 Eliz. c. 4, s. 22, "in the time of hay or corn harvest, the justices of peace, and every of them, and also the constable, or other head officer of every township upon request, and for the avoiding of the loss of any corn, grain, or hay, shall and may cause all such artificers and persons as be meet to labour, by the discretions of the said justices or constables, or other head officers, or by any of them, to serve by the day for the mowing, reaping, shearing, getting, or inning of corn, grain, and hay, according to the skill and quality of the person; and that none of the said persons shall refuse so to do, upon pain to suffer imprisonment in the stocks by the space of two days and one night: and the constable of the town, or other head officer of the same, where the said refusal shall be made, upon complaint to him made, shall have authority, by virtue hereof, to set the said offender in the stocks for the time aforesaid, and shall punish him accordingly, upon pain to lose and forfeit for not doing thereof the sum of 40*s.*"

A proviso for some that go into other shires for work in hay-time and harvest.

Sect. 23. "All persons of the counties where they have accustomed to go into other shires for harvest-work, and having, at that time, no harvest-work sufficient in the same town or county where he or they dwelt in the winter then last past, bringing with him or them a testimonial, under the hand and seal of one justice of the peace of the shire, or other head officer of the town or place that he or they come from, testifying the same, for the which he shall pay not above one peny* (other than such persons as shall be retained in service, according to the form of this estatute), may repair and resort in harvest of hay or corn, from the counties wherein their dwelling-places are, into any other place or county, for the only mowing, reaping, and getting of hay, corn, or grain, and for the only working of harvest-works, as they might have done before the making of the estatute; any thing herein contained to the contrary notwithstanding."

* *Sic.*

Persons going to work in harvest.

By 13 & 14 Car. II. c. 12, s. 3, "that (this act notwithstanding) it shall and may be lawful for any person or persons to go into any county, parish, or place, to work in time of harvest, or at any time to work at any other work, so that he or they carry with him or them a certificate from the minister of the parish, and one of the churchwardens and one of the overseers for the poor for the said year, that he or they have a dwelling-house or place in which he or they inhabit, and hath left wife and children, or some of them there (or otherwise, as the condition of the persons shall require), and is declared an inhabitant or inhabitants there; and, in such case, if the person or persons shall not return to the place aforesaid, when his or their work is finished, or shall fall sick or impotent whilst he or they are in the

said work, it shall not be accounted a settlement in the cases abovesaid, but that it shall and may be lawful for two justices of the peace to convey the said person or persons to the place of his or their habitation as aforesaid, under the pains and penalties in this act prescribed; and if such person or persons shall refuse to go, or shall not remain in such parish where they ought to be settled as aforesaid, but shall return, of his own accord, to the parish from whence he was removed, it shall and may be lawful for any justice of the peace of the city, county, or town corporate, where the said offence shall be committed, to send such person or persons offending to the house of correction, there to be punished as a vagabond, or to a public work-house in this present act hereafter mentioned, there to be employed in work or labour: and if the churchwardens and overseers of the poor of the parish to which he or they shall be removed, refuse to receive such person or persons, and to provide work for them, as other inhabitants of the parish, any justice of peace of that division may and shall thereupon bind any such officer or officers in whom there shall be default, to the assizes or sessions, there to be indicted for his or their contempt in that behalf."

7. *Improperly
Serving, or
putting an
End to Service
of Labourers,
&c.*

VII. *Improperly Serving, or putting an End to Service of Labourers, &c.*

We have already seen how far *domestic* servants and others are entitled to wages, or actions in case of their improper dismissal, *ante*, 487 to 493.

By the 5 Eliz. c. 4, s. 8, "if any person, after he hath retained any servant (*viz.* in husbandry, &c., see, *ante*, p. 486), shall put away the same servant before the end of his term, unless it be for some reasonable and sufficient cause, to be allowed as is aforesaid, (*viz.* sect. 5, *ante*, 488); or if any such master, mistress, or dame shall put away any such servant at the end of his time, without one quarter's warning given before the said end, as is above remembered, that then every such master, mistress, or dame so offending, unless he or they be able to prove by two sufficient witnesses such reasonable and sufficient cause of putting away their servant or servants during their term, or a quarter's warning given afore the end of the said term as is aforesaid, before the justices of oyer and terminer, justices of assize, justices of peace in the quarter sessions, or before the mayor or other head officer of any city, borough, or town corporate, and two aldermen, or two other discreet burgesses of the same city, borough, or town corporate, if there be no aldermen, or before the lord president and council established in the marches of Wales, or before the lord president and council for the time being established in the north parts, shall forfeit the sum of 40s."

Penalty for putting away servant within his term, or at the end of term without warning.

Sect. 9. "If any servant retained according to the form of this estatute, depart from his master, mistress, or dame's service, before the end of his term, unless it be for some reasonable and sufficient cause to be allowed as is aforesaid; or if any servant at the end of his term depart from his said master, mistress, or dame's service without one quarter's warning given before the end of his said term, in form aforesaid, and before two lawful witnesses; or if any person or persons compellable and bounden to be retained, and to serve in husbandry, or in any other the arts, sciences, or mysteries above remembered, by the year or otherwise, do (upon request made) refuse to serve for the wages that shall be limited, rated, and appointed, according to the form of this statute, or the promise or covenant to serve, and do not serve according to the tenor of the same; that then every servant so departing away, and every person so refusing to serve for such wages, upon complaint thereof made by the master, mistress, or dame of the said servant, or by the party to or with whom the said refusal is made, or promise not kept, to two justices of peace of the county, or to the mayor, or other head officer of the city, borough, or town corporate, and two aldermen, or two other discreet burgesses of the same city, borough, or town corporate, if there

Punishment of servant for not performing his duty in service or departure.

8. *Testimonials on quitting Service.*

5 Eliz. c. 4, s. 8.

Application of penalties.

Who may hear and determine offences.

Who shall have the forfeiture in cities and towns corporate.

* *Sic.*

None may depart forth of the city, parish, &c., without a testimonial.

be no aldermen, where the said master, mistress, or dame, or the said party to or with whom the said refusal is made, and promise not kept, dwelleth, or to either of the said lords presidents and council of Wales, and the north, the said justices, lords presidents, and councils, and also the said mayors or other head officers, and other persons of cities, boroughs, or towns corporate, or any of them as aforesaid, shall have power, by force of this statute, to hear and examine the matter, and finding the said servant or the said party so refusing faulty in the premises, upon such proofs and good matter as to their discretions shall be thought sufficient, to commit him or them to ward, there to remain without bail or mainprize, until the said servant or party so offending shall be bound to the party to whom the offence shall be made, to serve and continue with him for the wages that then shall be limited and appointed according to the tenor and form of this estatute, and to be discharged upon his delivery, without paying any fee to the gaoler where he or they shall be so imprisoned."

Sect. 39. "The one-half of all forfeitures and penalties, expressed and mentioned in this estatute, other than such as are expressly otherwise appointed, shall be to our sovereign lady the queen's majesty, her heirs and successors, and the other moiety to him or them that shall sue for the same in any of the queen's majesty's courts of record, or before any of the justices of oyer and terminer, or before any other justices, or president and council before remembered, by action of debt, information, bill of complaint, or otherwise; in which actions or suits, no protection, wager of law, or essoin shall be allowed; and that the said justices, or two of them, whereof one to be of the quorum, and the said presidents and council, as is aforesaid, and the said mayors or other head officers of cities or towns corporate, shall have full power and authority to hear and determine all and every offence and offences that shall be committed or done against this estatute, or against any branch thereof, as well upon indictment to be taken before them in the sessions of the peace, as upon information, action of debt, or bill of complaint to be sued or exhibited by any person; and shall and may by virtue hereof make process against the defendant, and award execution, as in any other case they lawfully may by any the laws and statutes of this realm; and shall yearly in Michaelmas Term certify, by estreat, the fines and forfeitures of every the offences contained in this estatute, that shall be found before them, into the Court of Exchequer, in like sort and form as they be bound to certify the estreats for other offences and forfeitures to be lost before them; any thing in this statute contained to the contrary notwithstanding."

Sect. 45. "All manner* amerciaments, fines, issues, and forfeitures which shall arise, grow, or come by reason of any offences or defaults mentioned in this act, or any branch thereof, within any city or town corporate, shall be levied, gathered, and received by such person or persons of the same city or town corporate, as shall be appointed by the mayor or other head officers mentioned in this act, to the use and maintenance of the same city or town corporate, in such case and condition as any manner other amerciaments, fines, issues, or forfeitures have been used to be levied and employed within the same city or town corporate, by reason of any grant or charter from the queen's majesty that now is, or of any her grace's noble progenitors, made and granted to the same city, borough, or town corporate; any thing or clause before mentioned and expressed in this act to the contrary notwithstanding."

VIII. *Testimonials on Labourers, &c. quitting Service.*

By the 5 Eliz. c. 4. s. 10, "None of the said (*ante*, sec. 7, p. 486) retained persons in husbandry, or in any the arts or sciences above remembered, after the time of his retainer expired, shall depart forth of one city, town, or parish, to another, nor out of the lath, rape, wapentake, or hundred, nor out of the county or shire where he last served, to serve in any other city, town corporate, lath, rape, wapentake, hundred, shire, or county, unless

he have a testimonial under the seal of the said city or town corporate, or of the constable or constables, or other head officer or officers, and of two other honest householders of the city, town, or parish where he last served, declaring his lawful departure, and the name of the shire and place where he dwelled last before his departure, according to the form hereafter expressed in this act; which certificate or testimonial shall be written and delivered unto the said servant, and also registered by the parson, vicar, or curate of the parish where such master, mistress, or dame doth or shall dwell, taking for the doing thereof 2*d.*, and not above; and the form thereof shall be as followeth:

“Memorandum, that A. B., late servant to C. D., of E., [husbandman, or, tailor, &c.] in the county, is licensed to depart from his said master, and is at liberty to serve elsewhere, according to the statute in that case made and provided. In witness whereof, &c. Dated the” [day, month, year, and place, &c., of the making thereof].

Form of testimonial.

Sect. 11. “No person or persons that shall depart out of a service, shall be retained or accepted into any other service, without showing, before his retainer, such testimonial as is above remembered, to the chief officer of the town corporate, and in every other town and place, to the constable, curate, churchwarden, or other head officer of the same, where he shall be retained to serve, upon the pain that every such servant so departing without such certificate of testimonial, shall be imprisoned until he procure a testimonial or certificate, the which if he cannot do within the space of one-and-twenty days next after the first day of his imprisonment, then the said person to be whipped and used as a vagabond according to the laws in such cases provided; and that every person retaining any such servant without showing such testimonial or certificate as is aforesaid, shall forfeit for every such offence 5*l.*; and if any such person shall be taken with any counterfeit or forged testimonial, then to be whipped as a vagabond.”

No servant shall be retained without showing his testimonial.

By the common law, if a man retained another man's servant, not knowing that he was retained with him, this ignorance excused him of the offence; but now the master may and must take notice whether such servant hath a testimonial or no; otherwise, if he hath no testimonial, such master is liable by the statute to the penalty of 5*l.* (*D. & St.* 256.)

Master that retaineth a servant without a testimonial to pay 5*l.*

IX. Labourers, &c., Fleeing into another Shire.

By the 5 Eliz. c. 4, s. 47, it is enacted, “that* if any servant or apprentice of husbandry, or of any art, science, or occupation aforesaid, unlawfully depart or flee into any other shire, that* it shall be lawful to the said justices of peace, and to the said mayors, bailiffs, and other head officers of cities and towns corporate, for the time being justices of peace there, to make and grant writs of *capias*, so many, and such as shall be needful, to be directed to the sheriffs of the counties, or to other head officers of the places whither such servants or apprentices shall so depart or flee, to take their bodies, returnable before them at what time shall please them; so that, if they come by such process, that† they be put in prison till they shall find sufficient surety well and honestly to serve their masters, mistresses, or dames, from whom they so departed or fled, according to the order of the law.”

Labourers, &c., fleeing into another shire.

* *Sic.*

† *Sic.*

X. Disputes between Masters and Workmen in the Silk, Cloth, Woollen, Linen, Fustian, Cotton, Iron, Hat, Fur, Hemp, Flax, or Mohair, Manufactures.

By the 5 Geo. IV. c. 66, s. 1, *post*, the 13 Geo. III. c. 68, 32 Geo. III. c. 44, and 51 Geo. III. c. 7, are repealed.

Repeal of acts.

And the 5 Geo. IV. c. 95, s. 1, *post*, repeals sects. 1 & 5 of the 13 Geo. III. c. 68, and so much of the 32 Geo. III. c. 44, as extends the provisions of the 13 Geo. III. c. 68.

10. *Silk, &c.*
Workmen's
Disputes, &c.

13&14 Car. 2, c. 15.

Silk winders em-
bezzling silks de-
livered to them.

To make compen-
sation.

Proviso.

If unable to make
recompense, fur-
ther punishment.

Silk-winders or
doublers offend-
ing, to be com-
mitted to prison.

Embezzling, &c.,
any silk delivered
to be wrought
up, &c.

Cloth workers, &c.,
embezzling wool,
&c.

The 3 & 4 Wil. IV. c. 28, repeals the 13 Geo. I. c. 23, intituled, "An Act for the better Regulation of Woollen Manufactories, and for preventing Disputes among the persons concerned therein."

By the 13 & 14 Car. II. c. 15, s. 6, "every *silk winder and doubler*, who shall at any time hereafter unjustly or deceitfully and falsely purloin, embezzle, pawn, sell, or detain, any part of *silk* delivered or to be delivered by any *silk* thrower or other person, to them or any of them, to wind or double, that in every such case and cases, as well the winder or journeyman so offending as the buyer and buyers, receiver and receivers of such silk, being thereof lawfully convicted, by confession of the party or parties so offending, or by one witness upon oath before one or more of the justices of peace of the county or liberty where the same offence or offences shall be committed; or if it be within any city or town corporate, before the mayor, bailiff, or chief officer of the said city or town corporate, who by force of this act are empowered and authorized to minister the same oath, and finally to hear and determine all and every the offences aforesaid, and to give and make to the party and parties grieved such recompense and satisfaction for such their damage and loss, and charges thereabouts, as by the said justice or justices, or chief officers, shall be ordered and appointed."

Sect. 7. "No more damage be given or awarded, than the party grieved shall prove he is damnified, and hath expended in looking after the same; and if the party or parties so offending shall not be able or sufficient to make recompense or satisfaction for the said offence, nor do make recompense or satisfaction for the same offence or offences within fourteen days next after such conviction, in such manner and form as by the justice or justices, or chief officers, shall be ordered and appointed, as aforesaid; then the party or parties so offending, for the first offence, shall be apprehended and whipped, or set in the stocks in the place where the offence is committed, or in some market town in the said county, near unto the place where the offence or offences aforesaid shall be committed, as shall be limited and appointed by the said justice or justices of the peace, or chief officers; and for the second offence, to incur the like, or such further punishment, by whipping, or being put in the stocks, as the said justice or justices of the peace, or chief officers, shall in their discretion think fit and convenient."

By the 20 Car. II. c. 6, s. 3, "If any *silk winder or doubler* shall hereafter be found faulty, in unjustly, deceitfully, or falsely purloining, embezzling, pawning, selling, or detaining, any *silk* committed to his or their trust, that then any justice of peace, mayor, bailiff, or chief officer of any county, liberty, or corporation, shall immediately upon conviction, by confession of the party, or upon the oath of one witness before any of the said justice or justices of the peace, or other officer, commit to prison, or to the house of correction, the offender, till satisfaction be given to the party wronged, or punishment inflicted, as by an act of parliament, intituled 'An Act for regulating the Trade of Silk-Throwing,' made this present parliament, is directed and appointed; any thing in the said act contained to the contrary hereof in anywise notwithstanding."

And by the 8 & 9 Wil. c. 36, s. 6, "All and every person or persons whatsoever, that shall embezzle, pawn, sell, or detain any of the *silk* so delivered, or after the same is wrought up, and also all and every receiver and receivers, buyer and buyers, or such as take to pawn any of the said goods, shall be subject and liable to all the penalties, forfeitures, and punishments contained, mentioned, and provided, in one act of parliament made in the thirteenth and fourteenth years of the reign of king Charles the Second, intituled 'An Act for regulating the Trade of Silk-Throwing;' and in another act made in the twentieth year of the said king Charles the Second, intituled 'An Act to regulate the Trade of Silk-Throwing.'"

By the 7 Jac. I. c. 7, s. 2, "All and every such lewd person and persons, who shall at any time after twenty days next after the end of this session of parliament, unjustly, falsely, or deceitfully convey away, embezzle, purloin, sell, or detain any part of the *wool* or *yarn* delivered by any *clothier, maker of bays, says, or by any other person or persons making any such cloths or*

stuffs, to any such sorter, carder, kember, spinster, or weaver of wool or yarn; that in every such case and cases, as well the sorter, carder, kember, spinster, and weaver so offending, as the buyer and buyers, receiver and receivers of the same, knowing the same, being thereof lawfully convicted (by confession of the party or parties so offending, or by one sufficient witness upon oath before two or more of the king's majesty's justices of the peace of the same county or liberty where the same offence or offences shall be committed, or if it be within a town corporate, before the mayor, bailiff, or chief officer, and one more of the aldermen or most substantial persons of the said town, who shall by force of this act have full power and authority to minister the same oath, and finally to hear, end, and determine all and every the offences aforesaid; shall give and make to the party or parties grieved, such recompense and satisfaction for such their damage and loss, as by the said justices or chief officers shall be ordered and appointed: and if the party or parties so offending shall not be thought, in the discretion of the said justices or chief officers, able or sufficient, or do not make recompense or satisfaction for the same offence or offences, in such manner and form as by the said justices or chief officers shall be ordered and appointed as aforesaid, then the party or parties offending, for the first offence, to be apprehended and whipped, or set in the stocks, in the place where the offence is committed, or in some market town in the said county, near unto the place where the offence or offences aforesaid shall be committed, and shall be limited and appointed by the said justices of the peace or chief officers: and for the second offence, to incur the like or such further punishment by whipping, or being put in the stocks, as the said justices of the peace or chief officers shall in their discretion think fit and convenient."

10. *Silk, &c.*
Workmen's
Disputes, &c.

7 Jac. 1. c. 7.

Sect. 3. "All and every receiver and receivers, buyer and buyers, of any wool or yarn, embezzled or purloined, contrary to the meaning of this act, knowing the same to be embezzled or purloined, shall be subject to like punishment as by this act is inflicted or provided to be inflicted upon any such person so embezzling or purloining any such wool or yarn as aforesaid."

Receivers or
buyers of em-
bezzled wool, &c.

Sect. 4. "All and every spinner and spinners of wool within the county of *Essex*, that shall receive any wool to be spun into yarn for any clothier or maker of bays, says, or other stuffs aforesaid, dwelling in the town of *Cogshall*, *Bocking*, *Braintree*, *Halstead*, *Wittam*, or *Colchester*, within the said county, and shall deliver back again the yarn made of the said wool by any shorter reel than hath been there usual of ancient time, that is to say, the said reel containing two yards about, shall be subject to like punishment as by this act is inflicted or provided to be inflicted upon any person or persons embezzling and purloining yarn as aforesaid."

Spinners of wool
in certain towns
in *Essex*.

By the 1 Anne, st. 2, c. 18, s. 1, "if any person or persons employed in the working up the *woollen*, *linen*, *fustian*, *cotton*, or *iron* manufactures within this kingdom, shall embezzle or purloin any wefts, thrums, or ends of yarn, or any other materials of wool, hemp, flax, cotton, or iron, with which he, she, or they is or shall be intrusted to work upon, or shall reel short or false yarn (a), being thereof lawfully convicted by the oath of one or more credible witness or witnesses, or by the confession of the party or parties accused of the same, before one justice of the peace of the said county where such offence shall be committed, shall forfeit double the value of the damages done, for the use of the poor of the said parish: and in case the offender or offenders so convicted as aforesaid, shall neglect or refuse to pay their forfeiture or forfeitures as aforesaid, that then it shall and may be lawful for the said justice to cause the said offender to be committed to the house of correction, until satisfaction shall be made: and in case it shall appear to the said justice, that the said offender is not able to make satisfaction, then the said offender shall be there publicly whipped, and kept to hard labour, for any time not exceeding fourteen days."

Embezzling wool,
&c.

Sect. 2. "Every person or persons buying or receiving any wefts, thrums, Buying, &c., such goods.

(a) See 14 Geo. III. c. 44, *post*, 523.

10. *Silk, &c.*
Workmen's
Disputes, &c.

1 Anne 2, st. 2,
c. 18.

What wool to be
delivered out by
weight.

How wages, &c. of
workmen may be
determined.

Appeal (a).

Costs.

Manufacturers of
woollen, &c., em-
bezzling mate-
rials.

or ends of yarn, or any other materials of wool, hemp, flax, cotton, or iron, and being thereof lawfully convicted, in manner as aforesaid, shall suffer the like penalties and forfeitures, as one convicted, pursuant to this act, for purloining and embezzling of the said materials."

Sect. 3. "All wool delivered out to be wrought up, shall be so delivered, with declaration of the true weight thereof, on pain that every offender, in either of the said cases, shall forfeit and pay to such labourer or worker double the value of what shall be due for such work by him, her, or them done; and if any such labourer or worker shall be guilty of any such fraud or default in the work by him, her, or them done, then such labourer or worker shall allow and answer to the owner of such work double the damages thereby sustained." [The first part of this section, as to the payment of wages in money, is repealed by 1 & 2 Wil. IV. c. 36, *ante*, 493; and see now the 1 & 2 Wil. IV. c. 37, *ante*, 495, as to the payment of wages.]

Sect. 4. "All wages, demands, frauds, and defaults of labourers in the *woollen, linen, fustian, cotton, and iron* manufactures, for or concerning any work done in the same manufactures, shall and may be heard and determined by any two justices of the peace of the county, riding, division, city, or town corporate, where the matter in controversy ariseth, who are hereby empowered to summon and examine witnesses on oath concerning the same: but in case any person shall think himself aggrieved by any judgment or order of the said justices, it shall and may be lawful for such person to appeal against the judgment and order of the said two justices, to the justices of the peace in the general quarter sessions of the peace, which shall be held for the same county, riding, division, city, or town corporate, next after notice of such order of the said two justices; and the justices of the peace in the said general quarter sessions are hereby empowered to summon and examine witnesses on oath, and to hear and finally determine the matter of the said appeal; and in case the same justices, in the said general quarter sessions, shall give judgment against such appellant, then the same justices shall award and order to the party, on whose behalf the same appeal is determined, such reasonable costs and charges to be paid by such appellant, in regard of such appeal, as to the same justices shall seem meet."

And by the 13 Geo. II. c. 8, s. 1, "If any person or persons who shall be hired or employed in the working up of any *woollen, linen, fustian, cotton, or iron* manufactures, shall, after the 1st day of May, 1740, purloin, embezzle, secrete, sell, pawn, exchange, or otherwise illegally dispose of any of the materials with which he, she, or they shall be respectively intrusted to work up such *woollen, linen, fustian, cotton or iron* manufactures, whether the same, or any part thereof, be or be not first wrought, made up, or manufactured, or shall reel short or false yarn (b), the person or persons so offending, and being thereof convicted in manner and form as is prescribed by the said recited act for the conviction of persons who shall embezzle or purloin any of the materials therein mentioned, he, she, or they shall severally forfeit double the value of the damages, which the owner or owners of such materials, whether the same, or any part thereof, be or be not manufactured, shall respectively sustain thereby, together with such costs of prosecution for every such offence as shall be adjudged reasonable by the justice of the peace before whom such offender or offenders respectively shall be convicted; and in case immediate payment of the respective forfeitures, together with such costs of prosecution as aforesaid, shall be neglected or refused to be made, that then it shall and may be lawful to and for the same justice of the peace, before whom such conviction shall be made, to cause the said offender or offenders to be committed to the house of correction, to be there whipped and kept to hard labour for any time not exceeding fourteen days; and in case of a further conviction for or on a second or other subsequent offence of any person, for embezzling or purloining any of the materials in the said act mentioned, either before the same or any part

(a) See in general, title "*Appral*," *ante*, Vol. I. (b) See 14 Geo. III. c. 44, *post*, 523.

thereof shall be wrought, made up, or converted into merchantable wares, the person or persons so offending shall, for every second or other subsequent offence, being thereof convicted in manner as is mentioned in the said recited act, forfeit four times the value of the damages, which the owner or owners of such materials, whether the same be or be not wrought, made up, or manufactured respectively, shall sustain thereby, together with such costs of prosecution as shall be adjudged reasonable by the justice before whom such offender or offenders shall be thereof respectively convicted; and in case immediate payment of the respective forfeitures, together with such costs of prosecution as aforesaid, shall be neglected or refused to be made, that then such justice, or any other justice of the peace for the county, riding, division, city, town, or place, where such offenders shall be committed, shall cause the said offenders respectively to be committed to the house of correction, to be there kept to hard labour, for any time not exceeding three months, nor less than one month, as to such justice shall seem reasonable; and also during the time of such offender or offenders' respective commitment or commitments, shall cause the said offender or offenders to be publicly whipped in the market-town where such offender or offenders shall be respectively committed, at the market-place or cross of such town, once or oftener, as to such justice shall seem reasonable."

10. *Silk, &c. Workmen's Disputes, &c.*
Subsequent offences.

And by sect. 2, the buyers or receivers of the same shall be subject to the like penalties. Receivers.

By the 58 Geo. III. c. 51, s. 3, "from and after the passing of this act, if any person or persons shall incur, and be convicted in any penalty or penalties under any of the said acts (4 Ed. IV. c. 1, 1 Anne, st. 2, c. 18, 10 Anne, c. 16 (a), 1 Geo. I. c. 15 (a), 7 Anne, c. 13 (a), 12 Geo. I. c. 34, 13 Geo. I. c. 23, 13 Geo. II. c. 8, 22 Geo. II. c. 27, 29 Geo. III. c. 23, 17 Geo. III. c. 56, 57 Geo. III. c. 115, and 57 Geo. III. c. 122), such penalty or penalties, in which any such person or persons shall be so convicted, instead of being applied as by the said acts, or any of them, is directed, shall be paid and applied, one moiety thereof to the informer, and the other moiety to the churchwardens and overseers of the poor, or in Scotland to the kirk session, of the parish within which the said offence shall have been committed, for the use of the poor of the said parish."

Application of penalties. (b)

Sect. 4. "If the informer shall be called to give evidence, the whole of the penalty shall in that case go to the poor of the parish." When penalty to poor.

Sect. 6. "All the powers, provisions, regulations, pains, penalties, and forfeitures in the said acts or any of them contained, for the purposes aforesaid, shall be exercised, enforced, levied, recovered, and applied, in as ample and full a manner as if the same had been thereby enacted." Recovery of penalties.

By the 22 Geo. II. c. 27, s. 1, "if any person or persons whatsoever, who shall be hired or employed to make any *felt* or *hat*, or to prepare or work up any *woollen*, *linen*, *fustian*, *cotton*, *iron*, *leather*, *fur*, *hemp*, *flax*, *mohair*, or *silk* manufactures, or any manufactures made up of *wool*, *fur*, *hemp*, *flax*, *cotton*, *mohair*, or *silk*, or of any of the said materials mixed one with another, shall, from and after the 24th day of June, 1749, purloin, embezzle, secrete, sell, pawn, exchange, or otherwise unlawfully dispose of any of the materials with which he, she, or they shall be respectively intrusted, whether the same, or any part thereof, be or be not first wrought, made up, manufactured, or converted into merchantable wares, or shall reel false or short yarn, and shall be thereof lawfully * convicted, by the oath, or (if the owner thereof be of the people called Quakers) solemn affirmation of the owner of such goods or materials, or by the oath or affirmation of any other credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any one or more justice or justices of the peace of † county, riding, division, city, liberty, town, or place where such offence shall be committed, or where the person or persons so charged shall reside or

Further provision as to embezzling, &c. goods put out to work.

* Sic.

† Sic.

(a) The 49 Geo. III. c. 109, repeals these statutes; and the 1 & 2 Wil. IV. c. 36, repeals the rest as to the mode of paying wages in bank notes, &c. (b) These provisions of the 58 Geo. III. are, it seems, not repealed by the 1 & 2 Wil. IV. c. 36, *ante*, 495.

10. *Silk, &c.*
Workmen's
Disputes, &c.

22 Geo. 2, c. 27.

Second offence.

inhabit (which oath or affirmation the said justice or justices is and are hereby empowered and required to administer), it shall and may be lawful to and for the said justice or justices, by warrant under his or their hand and seal, or hands and seals, to commit the person or persons so convicted to the house of correction, or other public prison of such county, riding, division, city, liberty, town, or place, there to be kept to hard labour for the space of fourteen days, and also to order the person or persons so convicted to be once publicly whipped at the market-place, or some other public place of the city, town, or place where such offender or offenders shall be respectively committed; and in case of a further conviction, in manner before prescribed by this act, for or upon a second or other subsequent offence of the same kind, it shall and may be lawful to and for the justice or justices before whom such conviction shall be had, to commit the person or persons so again offending to the house of correction, or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month, and also to order the person or persons so again offending, to be publicly whipped at the market-place, or some other public place of the city, town, or place where such offender or offenders shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable; any thing in the said act of the first year of her said late majesty's reign, or in the said in part recited act of the thirteenth year of his present majesty's reign, to the contrary in anywise notwithstanding."

17 Geo. 3, c. 56.

Second offence.

Conviction to be
before two jus-
tices, &c.

Buying or re-
ceiving materials
from workmen.

By the 17 Geo. III. c. 56, s. 1, reciting the 22 Geo. II. c. 27, s. 1, "so much of the said recited act as prescribes what the punishment shall be in any of the cases before mentioned, or before whom such conviction shall be had, whether for a first offence, or a second or any subsequent offence, shall be repealed; and instead of inflicting the punishment so directed, the justices of the peace before whom the conviction shall be, shall commit the person convicted to the house of correction or other public prison, there to be kept to hard labour, in the case of a first offence, for any time not less than fourteen days, nor more than three months; and in the case of a second or any subsequent offence, for any time not less than three months, nor more than six months; and may likewise for the first, or for any subsequent offence, order the person convicted to be once publicly whipped, if such additional punishment shall by the said justice or justices be deemed proper(a)."

Sect. 2. "No person or persons, who shall be charged with any offence or offences against the said recited act of the 22nd year of the reign of his late majesty king George the Second, shall be liable to be convicted, unless before two or more justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed; any thing contained in the said recited act to the contrary hereof notwithstanding."

By 22 Geo. II. c. 27, s. 2, "if any person or persons shall buy, receive, accept, or take, (by way of gift, pawn, pledge, sale, or exchange, or in any other manner whatsoever, of or from any person or persons, (hired or employed to make any felt or hat, or to prepare or work up the woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair, or silk manufactures, or any manufactures made up of wool, fur, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another,) any thrums or ends of yarn, or any other materials of wool, fur, hemp, flax, cotton, or iron, or any leather, mohair, or silk, (whether the same, or any part thereof, be or be not first wrought, made up, or manufactured,) knowing the person or persons of whom he, she, or they did so buy, receive, accept, or take the said materials, to be so hired or employed as aforesaid, and not having first obtained the consent of the person or persons so hiring or employing him, her, or them, or shall offer to sell, pawn, pledge, exchange, or otherwise dispose of the said materials, or shall buy, receive, accept, or take, in any manner whatsoever, of or from any person or persons whomsoever, any of the said materials, whether the same be or be not first wrought, made up, or manufactured, knowing the same to be so purloined or embezzled;

(a) See 2 East, P. C. 584.

then, and in every such case, the person or persons so buying, receiving, 10. *Silk, &c.*
 accepting, or taking any such materials, being thereof lawfully convicted, in *Workmen's*
 manner before prescribed by this act, for the conviction of persons purloin- *Disputes, &c.*
 ing or embezzling the said materials, shall, for the first offence, forfeit the
 sum of 20*l.*; and in case the said forfeiture shall not be immediately paid, 22 Geo. 2, c. 27.
 the justice or justices before whom such conviction shall be had, shall com-
 mit the party or parties so convicted to the house of correction, or other
 public prison as aforesaid, there to be kept to hard labour for the space of
 fourteen days, unless the said forfeiture shall be sooner paid; and if within
 two days before the expiration of the said fourteen days, the said forfeiture
 shall not be paid, the said justice or justices is and are hereby empowered
 and required to order the person or persons so convicted to be publicly
 whipped at the market-place, or some other public place of the city, town,
 or place where such offender or offenders shall be respectively committed,
 once or oftener, as to such justice or justices shall appear reasonable; and
 in case of a further conviction, for or upon a second or any other subsequent
 offence of the same kind, the person or persons so again offending, being
 thereof convicted in manner before prescribed by this act, shall, for every
 second or other subsequent offence, forfeit the sum of 40*l.*; and in case the
 said forfeiture shall not be immediately paid, the justice or justices, before
 whom such conviction shall be had, shall commit the party or parties so
 convicted to the house of correction, or other public prison as aforesaid,
 there to be kept to hard labour for any time not exceeding three months,
 nor less than one month, unless the said forfeiture shall be sooner paid; and
 if within seven days before the expiration of the time for which such offender
 or offenders shall be so committed, the said forfeiture shall not be paid, the
 said justice or justices is and are hereby empowered and required to order
 such offender or offenders to be publicly whipped at the market-place, or
 some other public place of the city, town, or place where he she, or they
 shall be respectively committed, twice or oftener, as to such justice or
 justices shall appear reasonable; and the said respective forfeitures of 20*l.*
 and 40*l.*, when recovered, after satisfaction shall have been made thereout
 to the party or parties injured, together with such costs of prosecution as
 shall be judged reasonable by the justice or justices before whom such
 conviction shall have been had, shall be equally distributed amongst the
 poor of the parish or place where the person or persons so convicted shall
 reside or inhabit; any thing in the said two first-mentioned acts, or either
 of them, to the contrary in anywise notwithstanding."

By 17 Geo. III. c. 56, s. 3, "so much of the said recited act of the twenty-
 second of his late majesty king George the Second, as enacts what the
 penalty or punishment shall be for such buying, receiving, accepting, or
 taking by way of gift, pawn, pledge, sale, or exchange, or in any other
 manner, as is described by the said act, in the terms aforesaid, and how
 such penalty shall be applied, and what punishment shall be inflicted in
 case of non-payment, shall be repealed; and instead thereof, the penalty for
 the first offence shall be any sum not more than 40*l.*, nor less than 20*l.*, as
 the justices before whom the conviction shall be shall judge to be most
 proper; and every such pecuniary penalty shall be applied, under the
 direction of the justices before whom the conviction shall be, in manner
 following; (that is to say), in the first place, the expenses of the prosecu-
 tion shall be thereout defrayed; and then such satisfaction shall be made
 thereout to the party or parties injured, as the said justices shall think
 proper; and afterwards so much of the said penalty shall be paid to the
 informer or informers as such justices shall think fit, not exceeding, in any
 case, 10*l.*; and the remainder, if any, shall be paid and distributed to and
 amongst the poor of the parish, town, or place, where the conviction shall
 be, or for the use of such public charity or charities as such justices shall
 appoint: and if such pecuniary penalty as aforesaid shall not be paid on

So much of act as
 orders punish-
 ment for buying,
 receiving, &c. of
 any goods in the
 last-recited clause
 mentioned, re-
 pealed; and
 other punish-
 ments substituted
 instead there-
 of (a).

(a) See, *ante*, p. 510.

10. *Silk, &c.*
Workmen's
Disputes, &c.

17 Geo. 3, c. 56.

Second offence,
 &c.

* *Sic.*

conviction, the said justices shall commit the person convicted to the house of correction, or other public prison, there to be kept to hard labour for any time not more than six months, nor less than three months, as the said justices shall think fit to direct, unless such pecuniary penalty shall be sooner paid; or the said justices may send the person convicted to the house of correction, or other public prison, there to remain for three days, exclusive of the day of commitment, with an order that within the said time the person so convicted shall be once publicly whipped at such market-place or other public place as aforesaid."

Sect. 4. "If any person or persons shall be brought before any justice of the peace, and shall be charged upon oath, or (being of the people called Quakers) upon solemn affirmation, of* having been guilty of buying, receiving, accepting, or taking by way of gift, pawn, pledge, sale or exchange, or in any other manner, as is described by the said recited act, in the terms aforesaid, and it shall appear to such justices that the person or persons so charged hath or have been already convicted of the like offence for which he, she, or they is or are then charged, that then such justices shall not proceed to convict such person or persons, but shall commit him, her, or them, to the house of correction, or some other public prison, there to remain until the next general or general quarter-sessions of the peace, to be held in and for the county, riding, division, city, liberty, town, or place where the offence shall have been committed, or until such offender or offenders shall have entered into a recognizance to answer for such offence at the said next general or general quarter-sessions; and the justices in such general or general quarter-sessions are hereby authorized and required to take cognizance thereof, and to hear and determine the same; and if such person shall be convicted upon the oath, or (being of the people called Quakers) upon the affirmation of one or more credible witness or witnesses, the person so convicted shall forfeit and pay, for such offence, any sum not more than 100*l.*, nor less than 50*l.*, as the said justices shall judge to be most proper; and every such penalty shall be applied and disposed of, under the direction of the said justices in their general or general quarter-sessions, in such manner and proportions as the penalty hereinbefore imposed for the first offence of the like nature is by this act directed to be applied and disposed of; and if such penalty shall not be paid on conviction, the said justices shall commit the person so convicted to the house of correction, or other public prison, there to be kept to hard labour for any time not more than six months, nor less than three months, as the said justices shall in their discretion think fit, unless such penalty shall be sooner paid; or the said justices may send the person convicted to the house of correction, or other public prison, there to remain for three days, exclusive of the day of commitment, with an order that within the said time such person shall be once publicly whipped(a) at such market-place, or other public place as aforesaid."

Selling the same.

Sect. 5. "If any person shall sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, or offer to sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, any such materials as aforesaid, whether wrought or unwrought, mixed or unmixed, knowing them to have been purloined or embezzled, every such person, lawfully convicted, shall be liable to the same punishment as he or she would be liable to by virtue of this act on being convicted of receiving purloined or embezzled materials, knowing them to have been purloined or embezzled."

How justices to
 proceed on charge
 on oath of sus-
 pected persons.

Sect 6. "When any person or persons shall be brought or charged upon oath, before any two or more justices of the peace, by virtue of this act, with being suspected of, or with having purloined or embezzled, or with having received any such materials as aforesaid, whether the same be wrought or unwrought, mixed or unmixed, knowing the same to have been either purloined or embezzled, or received from some person or persons not entitled to

(a) By the 1 Geo. IV. c. 57, the punishment of whipping females is abolished, see *post*, "*Women.*"

dispose thereof, and it shall be made appear upon the oath, or (being of the people called Quakers) upon the affirmation, of one or more credible witness or witnesses, to the satisfaction of such justices, that such person or persons hath or have purloined or embezzled, or hath or have received any such materials as aforesaid, knowing the same to have been purloined or embezzled, or received from some person or persons not entitled to dispose thereof, it shall and may be lawful for such justices, or for the justices at their general or general quarter-sessions of the peace, and they are hereby respectively authorized and empowered (if they shall think fit), to convict such person or persons of having purloined or embezzled, or of having received such materials as aforesaid, knowing the same to have been purloined or embezzled, or received from some person or persons not entitled to dispose thereof, although no proof shall be given to whom such materials belong; and the person or persons so convicted shall, for every such offence, be subject to such and the like penalties and punishments, at the discretion of such justices respectively, as persons convicted of buying or receiving any such materials as aforesaid, knowing the same to have been purloined or embezzled, are by this act subject and liable to."

10. *Silk, &c. Workmen's Disputes, &c.*

17 Geo. 3, c. 56.

Sect. 16. "Every penalty or punishment directed by, or other provision contained in the said recited act, in respect to the said materials, so far as the said recited act is not varied by this act, and all the provisions in this act contained in respect to the said materials, shall extend and be applicable to any tool or tools, and implement or implements, with which any person or persons shall be entrusted for making, working up, or manufacturing, the said materials, and also to any drug or drugs, ingredient or ingredients, with which any person or persons shall be entrusted, for the purpose of dyeing, preparing, or manufacturing such of the aforesaid materials as are usually dyed, prepared, or manufactured, in the same manner as if the said tools and implements, drugs and ingredients, were particularly mentioned, both in the said recited act and in the preceding provisions of this act."

Provisions extended to tools and implements.

By the 14 Geo. III. c. 25, s. 1, "If any picker, scribbler, spinner, or weaver, or other person or persons whatsoever, who shall be any ways employed in or about the making or manufacturing of *woollen cloth*, or in preparing materials for that purpose, shall not return all working tools or implements, wool, yarn, chain, woof, or abb, delivered out to be worked up and manufactured, and all such materials as aforesaid, wherewith he, she, or they shall be intrusted, or give a satisfactory account touching the same respectively, to his, her, or their employer, when thereunto required by the person or persons by whom he, she, or they shall have been so intrusted, or by his, her, or their known clerk or servant, or shall fraudulently steam, damp, or water the wool or yarn delivered to him, her, or them, to be worked up; or if any person or persons shall take off, cut, or pick out the list, forrel, or other mark of any piece of cloth, and shall be convicted of any such offence before some justice or justices of the peace for the county, division, liberty, or place where the person or persons so offending shall reside, either by the confession of the party or parties, or by the oath or oaths of one or more credible witness or witnesses; every such person so convicted shall be committed to the house of correction for the space of one calendar month."

Workmen in woollen manufactures, not returning implements.

Cutting, &c., off list or mark of cloth.

Punishment.

Sect 2. "If any person or persons *so employed*, and who shall have been intrusted with any tools, implements, wool, yarn, chain, woof, or abb, or other materials as aforesaid, shall not have delivered or accounted for the same, * shall abscond or cannot be found, or shall sell or otherwise dispose of the same or any part thereof; or if any person or persons shall fraudulently buy or receive such tools, implements, or materials of any person so employed or entrusted; or if any person or persons shall be suspected of, and charged on such suspicion with having embezzled and kept back, by means of fraudulently damping, steaming, or watering, the wool and yarn delivered out to him, her, or them; or with having sold, bought, or otherwise received the same, or any part thereof, as aforesaid, and oath shall be made thereof

Absconding and selling materials; or fraudulently buying, &c., tools.

* *Sic.*

10. *Silk, &c.
Workmen's
Disputes, &c.*

14 Geo. 3, c. 25.

Search-war-
rants (a).

* *Sic.*

Constables may
seize tools, &c.,
and bring per-
sons having in
custody before
justice.

Justice to allow
reasonable time
for producing
parties.

Justices may
cause houses to
be searched,

respectively before one of his majesty's justices of the peace for the county, division, liberty, or place where any such offence was committed; such justice shall thereupon issue his warrant to any constable or constables, or other peace-officer or peace-officers, to enter into and search, in the day-time, the place of dwelling or residence of such person or persons so offending, and also such other house or place, houses or places of which the clothier, clerk, or servant as aforesaid, shall make oath that he, she, or they have just cause to suspect (it appearing to the said justice to be reasonable suspicion) that the said working tools, or the said materials or some part or parts thereof, to * have been embezzled or kept back, sold, bought, or received, as aforesaid, may be secreted and lodged: and if, upon search, any of the said working tools, wool, yarn, chain, woof, or abb, or any cloth with the list, forrel, or other marks taken off, cut, or picked out, shall be found, the said constable or constables, peace-officer or peace-officers, shall seize the same, and apprehend the person or persons in whose custody or possession the same shall be found, and bring him, her, or them, before the same, or some other of his majesty's justices of the peace for the county, division, liberty, or place, aforesaid; and unless such person or persons, in whose custody the same shall be found, can give a good account how he, she, or they came by the same, to the satisfaction of such justice or justices; then, and in such case, such person or persons shall be thereof convicted, and suffer such punishment as is hereinbefore directed to be inflicted on persons not returning the tools or materials as aforesaid; and all such tools, wool, yarn, chain, woof, or abb, or such cloth as aforesaid, so seized, and not accounted for as aforesaid, shall, upon such conviction, be delivered over to the churchwardens or overseers of the poor of the parish where the same were seized, to be by them sold; and the monies arising by such sale, after defraying the expenses of such sale, shall be applied to the use of the poor of the said parish."

Sect. 3. "In case the person or persons accused shall request of such justice to appoint a reasonable time to produce the person or persons of or from whom he, she, or they, bought or received the same, or some one or more credible witness or witnesses, to prove the sale or delivery thereof; then, and in such case, it shall and may be lawful for the said justice, and he is hereby authorized and required to appoint such reasonable time as aforesaid, and to issue out a summons to the constable, or other peace-officer, of the parish or place where such person or persons, or such witness or witnesses shall respectively reside, requiring him, her, or them, to appear before such justice, at such time and place as shall be so appointed by such justice, in order to be examined and give evidence, on oath, of the several matters aforesaid; but such person or persons, at the time of making such request, shall enter into a recognizance, with or without surety or sureties, as such justice shall think proper, for his, her, or their appearance before him at the time so to be set, or, for want of such recognizance as aforesaid, shall be committed until the time that shall be so set or appointed by the said justice for the appearance of such party or parties, witness or witnesses: and if at such appointed time such person or persons shall be convicted of any of the offences aforesaid; then, and in such case, he, she, or they shall suffer such punishment as is hereinbefore directed to be inflicted on persons not returning such tools or materials as aforesaid."

Sect. 4. "It shall and may be lawful for any justice or justices, upon information made to him or them, on oath, by any credible person or persons, that there is just cause to suspect that any ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, drugget, or of other woollen goods, or of goods mixed with wool (flocks and pinions only excepted,) have been collected and received and are lodged or concealed in any dwelling-house, warehouse, outhouse, yard, or other place, by warrant under his hand and seal, to cause every such dwelling-house, warehouse, outhouse, yard, and other place to

(a) See ante, "Search Warrant."

be searched in the day-time; and if such ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, drugget, or other woollen goods, or goods mixed with wool (flocks and pinions only excepted) above the quantity of three pounds, shall be found therein, to seize the same; and also to cause the person or persons in whose house, warehouse, outhouse, yard, or other place, the same shall be found, to be brought before him, or some other justice or justices of the peace for the same county, division, liberty, or place, and on proof being made thereof upon oath before such justice or justices, that such ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, drugget, woollen goods, or goods mixed with wool (flocks and pinions only excepted) were found in the dwelling-house, warehouse, outhouse, yard, or other place of such person or persons, so brought before such justice or justices, such person or persons not exculpating him, her, or themselves to the satisfaction of such justice or justices, shall thereupon suffer such punishment as is hereinbefore directed to be inflicted on persons not returning the tools or materials as aforesaid, and the materials so found in the custody of such person or persons shall, by order of such justice or justices, be burnt, or otherwise destroyed."

10. *Silk, &c. Workmen's Disputes, &c.*

14 Geo. 3, c. 25.
and goods to be seized, and parties brought before them.

Sect. 8. "The justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following; that is to say:—

Form of conviction (a);

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, A. B. is convicted before me [or, us], _____ of his majesty's justices of the peace in and for the county, division, liberty, or place [as the case may be], of having [here specify the offence, and the time and place when and where the same was committed]. Given under my hand and seal [or, our hands and seals, as the case may be], the day and year aforesaid."

Sect. 9. "The justice or justices, before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be fairly wrote over upon parchment; and also to be returned to the next general quarter session of the peace to be held in and for the county, division, liberty, or place, where such conviction was made, to be filed by the clerk of the peace, and remain and be kept among the records of the said sessions."

to be written on parchment, and returned to quarter sessions.

Sect. 7. "If any person or persons shall think him, her, or themselves aggrieved, by the judgment of any justice or justices before whom he, she, or they shall have been convicted of any of the offences aforesaid, such person or persons may appeal; and the said justice or justices is and are hereby required to make known to such person or persons, at the time of such conviction, his and their right under this act to appeal to the next general quarter sessions of the peace to be held for the county, liberty, division, or place where such conviction shall be made, the person or persons, at the time of such conviction, giving to such justice or justices notice in writing, signifying, his, her, or their intention to appeal, and also entering into a recognizance at the time of such notice, with sufficient sureties, conditioned to try such appeal, and to abide the judgment of, and pay such costs as shall be awarded by the justices at such sessions; and the justices at such sessions are hereby authorized and required, upon due proof made of such notice, and of such recognizance being entered into, to hear and determine the matter of the said appeal in a summary way, and award costs to the party or parties appealing or appealed against, if the said justices shall think proper; but if upon such hearing the judgment of the justice or justices, before whom such appellant shall have been convicted as aforesaid, shall be affirmed, then, and in such case, such appellant shall suffer such punishment, in consequence of such conviction, as is hereinbefore directed to be inflicted on persons not returning the tools or materials as aforesaid."

Appeal (b).

(a) See as to enactments of this kind, ante, Vol. I., title "Conviction."

(b) See in general, title "Appeal," Vol. I.

10. *Silk, &c.*
Workmen's
Disputes, &c.

14 Geo. 3, c. 25.
Second offences.

Proviso.

Proceedings to be
by information,
on oath.

Certiorari.

Spoiling work
wilfully ;

or neglecting to
perform work in
due time (a).

Sect. 5. " If, upon any information made upon oath before any justice or justices against any person or persons offending against this act, it shall appear to such justice or justices, that such person or persons so informed against hath or have been already before convicted of any offence against this act ; then, and in such case, such justice or justices shall not proceed to convict such offender or offenders, but shall and may commit him, her, or them to the house of correction, there to remain until the next general quarter session of the peace to be held in and for the said county, division, liberty, or place, or until such offender or offenders shall have entered into a recognizance, with sufficient sureties, to appear at such sessions, and then and there to abide the order of the justices at such session ; and such justice or justices shall and may bind over the informer to prosecute the said offender or offenders at the said sessions, and the justices at such sessions shall then and there proceed to inquire into and determine the same in a summary way ; and if, upon such inquiry, such person or persons shall be found guilty of the said offence, the said justices shall, at their discretion, commit such offender or offenders to the house of correction for any time they think proper to direct, not exceeding three calendar months."

Sect. 6. " If it shall appear to the justices, at their general quarter sessions, that such person or persons have or hath already been convicted, at some general quarter sessions, of any offence against this act ; then, and in such case, the said justices shall, upon a like inquiry and conviction, in a summary way, direct the said offender or offenders to be committed to the house of correction, for any time not exceeding six calendar months, and also to be once publicly whipped at such time and place as such justices at their said quarter sessions shall direct."

Sect. 10. " No person or persons shall be proceeded against for any offences against this act as aforesaid, unless information shall be made thereof, upon oath, before one or more justice or justices of the peace for the county, division, liberty, or place, where such offence shall be committed, within three calendar months after such offence shall be committed ; and no order made, touching or concerning any of the matters in this act contained, or any proceedings to be had touching the conviction or convictions of any offender or offenders against this act, shall be quashed for want of form, or be removed or removable by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

By the 12 Geo. I. c. 34, s. 2, " if any *wool-comber, weaver, servant, or person hired, retained, or employed in the art or mystery of a wool-comber or weaver*, shall wilfully damnify, spoil, or destroy (without the consent of the owner) any of the goods, wares, or work committed to his care or charge, or wherewith he shall be entrusted, every such offender, being thereof lawfully convicted as aforesaid, shall forfeit and pay to the owner or owners of such goods or wares so damnified, spoiled, or destroyed, double the value thereof, to be levied by distress and sale of the offender's goods and chattels, by warrant or warrants under the hands and seals of any two or more justices of the peace within their respective jurisdictions, and for want of sufficient distress, such justices shall commit the party or parties offending to the house of correction, there to remain and be kept to hard labour for any time not exceeding three months, or until satisfaction be made to the party or parties aggrieved for the same."

The 17 Geo. III. c. 56, s. 8, repeals sect. 12 of 22 Geo. II. c. 27 (b), and enacts, " that if any person, being hired, retained, or employed, to prepare or work up any materials, whether mixed or unmixed, for any master or masters, shall wilfully neglect or refuse the performance thereof for eight days successively ; or having taken in any materials, whether mixed or

(a) See also the 4 Geo. IV. c. 34, s. 3, c. 52, *post*, 525.

the provisions of which act are extended to the 17 Geo. III. c. 56, by the 10 Geo. IV.

(b) It seems *also* repealed by the 6 Geo. 4, c. 129, *post*.

unmixed, for manufacture, from one master, or two or more masters being copartners, shall afterwards take in any materials, whether mixed or unmixed, for manufacture, from any other master or masters; or shall procure, or permit himself or herself to be employed or retained in any other occupation or employment whatsoever, sooner than eight days before the completion of the work first taken; then, in every such case, such person being thereof lawfully convicted by the oath, or (being of the people called Quakers) affirmation, of one or more credible witness or witnesses, before two or more justices of the peace of the county, riding, division, city, liberty, town, or place, where the offence or offences shall be committed, shall be sent to the house of correction, or other public prison, there to be kept to hard labour for any time not exceeding three months, nor less than one month."

10. *Silk, &c. Workmen's Disputes, &c.*

17 Geo. 3, c. 56.

Otherwise occupied.

Sect. 9. "If any person shall receive any of the aforesaid materials in a fictitious name, in order to be manufactured; or if any person shall receive in his or her own name any of the said materials, in order to be manufactured by himself or herself, and afterwards deliver the same, or any part thereof, to any other person to be manufactured (without the consent of the owner thereof); or if any carrier, or other person employed to deliver any such materials to any workman, to be prepared or wrought up, shall designedly deliver the same to any other person than the person to whom such materials were ordered or intended to be delivered by the owner thereof; all and every person and persons offending in any of the cases aforesaid, shall, for every such offence, be liable to prosecution, in the same manner, and to the same punishment, as is by this act directed in respect to persons taking in any of the said materials in order to work up, and afterwards wilfully neglecting or refusing the performance of their work for the space of time aforesaid."

Receivers of materials in fictitious names, &c.

Carriers delivering to wrong consignee.

Sect. 15. "It shall be lawful for the owner or owners of any such materials, from time to time, as occasion shall require, to demand entrance, and enter, at all seasonable hours in the day time, into the shops or outhouses of any person or persons employed by him or them to work up any of the said materials, or other place or places where the work shall be carried on, and there to inspect the state and condition of such materials; and in case of refusal, by any such person or persons so employed, to permit such entrance or inspection, he, she, or they so refusing, shall forfeit and pay such sum of money, not exceeding 40s., nor less than 10s., as the justices before whom he, she, or they shall be convicted, shall think proper, to be recovered and applied in the same manner as is by this act directed for the misdemeanor of being in the possession of any such materials, without being able to account satisfactorily for such possession."

Owner of materials may enter shops, &c. of workmen.

Sect. 7. "So much of the said recited act as allows twenty-one days after the preparing, working up, or manufacturing the said materials, for returning so much of the said materials as shall not be used in such preparing, working up, or manufacturing, and declares that the punishment for not so returning the said materials within the said time shall be the same as under the said act is directed for purloining or embezzling, shall be repealed; and only eight days shall be allowed for returning the said materials in manner aforesaid; and the punishment for not returning them within the said eight days shall be the same as is by this act directed to be inflicted for purloining or embezzling."

Materials not used to be returned.

Sect. 10. "It shall and may be lawful for any two justices of the peace of any county, riding, division, city, liberty, town, or place, upon complaint made to them, upon oath, by any one credible person, or (being of the people called Quakers) upon solemn affirmation, that there is cause to suspect that any such purloined or embezzled materials, whether mixed or unmixed, wrought or unwrought, are concealed in any dwelling-house, outhouse, yard, garden, or other place or places, by virtue of a warrant under their hands

Power of justices to issue search-warrants, &c. (a).

(a) As to search warrants in general, see *ante*, "Search Warrant."

10. *Silk, &c.
Workmen's
Disputes, &c.*

17 Geo. 3, c. 56.

Peace-officers
may apprehend
suspected per-
sons.

Justices may ap-
point time to pro-
duce persons en-
titled to dispose
of materials, &c.

How materials to
be disposed of,
&c.

and seals, to cause every such dwelling-house, outhouse, yard, garden, or place, to be searched in the day-time; and if any such materials, suspected to be purloined or embezzled, shall be found therein, to cause the same, and the person or persons in whose house, outhouse, yard, garden, or other place, the same shall be found, to be brought before any two justices of the peace for the same county, riding, division, city, liberty, town or place; and if the said person or persons shall not give an account, to the satisfaction of such justices, how he, she, or they came by the same, then the said person or persons so offending, shall be deemed and adjudged guilty of a misdemeanor, and shall be punished in manner herein-after mentioned, although no proof shall be given to whom such materials belong."

Sect. 11. "Every peace-officer, constable, headborough, or tithingman, in every county, city, town corporate, or other place, where there shall be officers, and every beadle within his ward, parish, or district, and every watchman, during such time only as he is on his duty, shall and may apprehend, or cause to be apprehended, all and every person or persons who may reasonably be suspected of having or carrying, or any ways conveying, at any time after sunsetting and before sunrising, any of such materials suspected to be purloined or embezzled, and the same, together with such person or persons, as soon as conveniently may be, convey or carry before any two justices of the peace for the county, riding, division, city, liberty, town, or place, within which the suspected person or persons shall be apprehended; and if the person or persons so apprehended in conveying any such materials, shall not produce the party or parties duly entitled to dispose thereof, from whom he, she, or they bought or received the same, or some other credible witness, to testify upon oath, or (being of the people called Quakers) upon solemn affirmation, to the sale or delivery of the said materials (which oath or affirmation respectively such justices are hereby empowered to administer,) or shall not give an account, to the satisfaction of such justices, how he, she, or they came by the same; then the said person or persons so apprehended shall be deemed and adjudged guilty of a misdemeanor, and be punished in manner herein-after mentioned, although no proof shall be given to whom such materials belong."

Sect. 12. "In either of the two cases last before mentioned, when any person or persons, who shall be brought before any two justices of the peace, shall request of such justices to appoint a reasonable time to produce the person or persons duly entitled to sell or dispose of the same, of or from whom he, she, or they bought or received the same, or some one or more credible witness or witnesses to prove the sale or delivery thereof; then, and in such case, it shall and may be lawful for the said justices, and they are hereby authorized and required to appoint such reasonable time as aforesaid, and to issue out a summons to the constable or other peace-officer of the parish or place where such person or persons, or such witness or witnesses, shall respectively reside, requiring him, her, or them, to appear before two or more justices, at such time and place as shall be so appointed by such justices, in order to be examined and give evidence on oath, or (being of the people called Quakers) solemn affirmation, of the several matters aforesaid; but such person or persons, at the time of making such request, shall enter into a recognizance, with or without surety or sureties, as such justices shall think proper, for his, her, or their appearance before them, at the time so to be set, or, for want of such recognizance as aforesaid, shall be committed until the time that shall be set or appointed by the said justices for the appearance of such party or parties, witness or witnesses; and if, at such appointed time, such person or persons shall be convicted of any of the offences aforesaid, then, and in such case, he, she, or they, shall suffer such punishment as is hereinbefore directed to be inflicted on persons guilty of such offences."

Sect. 13. "Where any person or persons shall be convicted of a misdemeanor in either of the two cases last before mentioned, it shall and may be lawful for the justices before whom the conviction shall be, to cause the said materials so found or seized as aforesaid, to be deposited in the hands

of the churchwardens or overseers of the poor of the place where such materials shall be found or seized, or in any other convenient place, for any time not exceeding thirty days; and, in the meantime, to order the said churchwardens and overseers of the poor, or one of them, to insert an advertisement in some one or more of the public newspapers usually published or circulated in or near such place, or otherwise to cause notice to be given by some public crier, and by fixing on the church or chapel door notice describing such materials, and where the same are so deposited, to the end that persons having lost such materials, or any reputable person or persons in their behalf, may come and claim the same; and in case any person or persons can prove his, her, or their property in the said materials upon oath, or (being of the people called Quakers) upon his, her, or their solemn affirmation, to the satisfaction of any two justices of the peace for such county, riding, division, city, liberty, town, or place, then such justices shall order restitution of such materials to the owner or owners thereof, after paying the reasonable charges of removing, depositing, and giving public notice of the same; but if, before the end of the said thirty days, no person or persons shall come and prove his, her, or their property in such materials, nor any reputable person or persons on his, her, or their behalf, then the said justices shall order and direct the same to be sold for the best price that can reasonably be had, and after deducting such charges as aforesaid, together with the charges of sale, one moiety of the money arising from such sale shall be given to the person or persons, or either of them, who shall apprehend or prosecute the offender or offenders guilty of either of the misdemeanors aforesaid, as the said justices shall appoint; and the other moiety thereof, either to and amongst the poor of the parish, town, or place, where the conviction shall be, or to such public charity or charities as the justices convicting shall appoint."

Sect. 14. "Every person adjudged guilty of any of the misdemeanors in ss. 10—13 of this act, shall forfeit, for the first offence, 20*l.*; for the second, 30*.*; and for every subsequent offence, 40*l.*; to be levied by distress and sale of the offenders' goods, by warrant of the convicting justices: of which forfeiture, one moiety shall be paid to the informer, and the other to the poor of the parish, or to such public charity as the justices appoint [but these penalties are now otherwise applied, see 58 Geo. III. c. 51, ss. 3, 4, *ante*, 509]. If no sufficient distress can be found, they may commit the offender to any gaol in their jurisdiction, for one month for the first, two for the second, and six for every subsequent offence."

10. *Silk, &c. Workmen's Disputes, &c.*

17 Geo. 3, c. 56.

Subsequent offences: penalties, &c., for.

Sect. 17. "If any person hired, retained, or employed as a journeyman dyer, or as a servant or apprentice, in the dyeing of any felt or hat, or any woollen, linen, fustian, cotton, leather, fur, flax, mohair, or silk materials, whether the same shall be wrought, or unwrought, or shall be mixed or unmixed with other of the said materials, shall, without the consent of the master, person, or persons, by whom such journeyman, servant, or apprentice, shall be hired, retained, or employed, wilfully dye any of the said materials, whether wrought or unwrought, or mixed or unmixed with other of the said materials, or, without such consent, shall wilfully receive any such materials as aforesaid, for the purpose of dyeing the same, whether the same shall be dyed or prepared for dyeing, he or she so guilty of either of the said offences shall, for the first offence, forfeit the sum of 10*s.*; and for the second offence, the sum of 20*s.*; and for every subsequent offence, the sum of 40*s.*; or if any person shall procure any such materials as aforesaid, to be dyed by any person so hired, retained, or employed as a journeyman, servant or apprentice, without the consent of his or her master or employer, or shall offer any such materials to any such journeyman, servant, or apprentice, for the purposes aforesaid, he or she so offending, being thereof lawfully convicted, by the oath, or (being of the people called Quakers) affirmation, of one or more credible witness or witnesses, before two or more justices of the peace for the county, riding, division, city, liberty, town, or place, where the offence shall be committed, shall, for the first offence, forfeit the sum of 5*s.*; and, for the second offence, the sum of

Servant dyeing goods for his own profit.

10. *Silk, &c.
Workmen's
Disputes, &c.*

17 Geo. 3, c. 56.

No master hat-
ter, &c. to act as
justice.

Appeal (a).

Commitment (b).

Limitation of ac-
tions.

General issue.

Double costs.

Application of
penalties, &c.

Recovering pe-
nalties.

20s.; and for every subsequent offence, the sum of 4*l.*; and each of the said penalties shall be paid to the informer or informers; and in case of nonpayment on conviction, the person so convicted shall be committed, by the justices before whom the conviction shall be, to the common gaol or house of correction, to remain for any time not exceeding one month, as such justices shall order and direct."

By 17 Geo. III. c. 55, s. 6, "no person or persons using or exercising the trade of a master hat-maker, hat-maker, or felt-maker, shall, during the time of his continuing to use or exercise such trade, be capable of acting as a justice of the peace in the execution of this or any other act relative to the punishment of any journeyman hat-maker or apprentice who shall offend against this or any other act made for the regulation of the said trade."

Sect. 8. "It shall and may be lawful for any person convicted before one or more justice or justices of the peace, of any of the offences in this act mentioned, to appeal to the justices of the peace assembled at the next general quarter-sessions, to be held for the county, city, borough, town, liberty, or place wherein such conviction shall be made, giving immediate notice of the intention of bringing such appeal, and finding security, to the satisfaction of the justice or justices before whom such conviction shall have been made, for being present at such general sessions, or general quarter-sessions, and for prosecuting the said appeal with effect, and abiding the judgment of the court; and such justices, in such general sessions, or general quarter-sessions, shall finally hear and determine the matter, and shall have power to award reasonable costs to either party as to them shall seem just; and if such conviction shall be affirmed at such sessions, such appellant shall be committed to the common gaol or house of correction for any time not exceeding three months."

Sect. 9. "No action shall be brought against any justice of the peace, constable, headborough, or other officer, or against any other person or persons whomsoever, for any matter or thing whatsoever done or committed under, or by virtue, or in the execution of this act, unless such action shall be brought within three calendar months next after the doing or committing such matter or thing."

Sect. 10. "If any action or suit shall hereafter be commenced or prosecuted against any person or persons, for any thing done by virtue or in the execution of this act, such person or persons may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff shall become nonsuited, or suffer discontinuance, or forbear further prosecution, or if judgment shall be given for the defendant or defendants, such defendant or defendants shall recover double costs, for which he, she, or they shall have the like remedy as in cases where costs by law are given to defendants."

The 58 Geo. III. c. 51, s. 3, 4, 5, 6, *ante*, 509, relate to the application of the penalties under the preceding acts of 22 Geo. II. c. 27, and 17 Geo. III. c. 56.

By 17 Geo. III. c. 56, s. 19, "it shall and may be lawful to and for any one justice of the peace of any county, riding, division, city, liberty, town, or place, and he is hereby required, upon complaint to him made upon oath, or (if the person complaining be of the people called Quakers) solemn affirmation, of any offence committed against this act, within the same county, riding, division, city, liberty, town, or place, to issue his warrant for apprehending and bringing before any two or more justices of the peace of the same county, riding, division, city, liberty, town, or place, the person or persons charged with such offence; and the justices before whom such person or persons shall be brought, are hereby authorized and required to

(a) See in general, *ante*, Vol. I., title "Appeal."

(b) See *ante*, Vol. I., title "Commitment in Execution."

hear and determine the matter of such complaint, and to proceed to judgment and conviction thereupon."

10. *Silk, &c. Workmen's Disputes, &c.*

Sect. 21. "In respect to all offences which shall be committed against the said recited act of the twenty-second of George the Second, so much of the said act of the twenty-third of George the Second as prescribes a form of conviction for offences against the said act of the twenty-second of George the Second, shall be repealed; and that the justices before whom any offender shall be convicted of any offence, either against the said act of the twenty-second of George the Second, or varied by this act, or against this act, shall cause the conviction to be certified to the next general or quarter-sessions of the peace to be held in and for the county, riding, division, city, liberty, town, or place, where such conviction was made, to be filed with the records of such sessions; and such conviction shall and may be drawn up and written on parchment, and certified in the following form of words, as far as the name of the person and the nature of the case will admit of; that is to say,

17 Geo. 3, c. 56.

Conviction.

Form of, &c. (a).

"*Middlesex* [or } *Be it remembered, that on the* *day of* , in
any other place, as } *the year of our Lord* , *A. B. was convicted be-*
the case shall be } *fore us,* *of his majesty's justices of the peace in*
to wit. } *and for the said county of* , [or, for the riding
of the said county of, or, for the city, liberty, town, or place aforesaid, in the said
county [as the case shall be] of]. [Here specify the offence, and when and
where the same was committed.] *Given under our hands and seals, the day and*
year first above written."

It seems that it will not be sufficient merely to follow this form of conviction, there being a discretionary punishment as to some of the offences included in this act. (*Rex v. Dempsey*, 2 T. R. 96; *Dick. Sess.* 2nd. ed. 701, 3rd. ed. 591; *R. v. Barrett*, 1 Salk. 383; *R. v. Helps*, 3 M. & Selw. 331. See *Evans, Col. Stat.* Part VI., Class XXXI., Vol. 8, p. 217, (I.))

It has also been observed, where there is a discretion as to the duration of imprisonment to be suffered for want of distress, as in cases depending upon sect. 4, the general practice of the sessions has been to require such imprisonment to appear on the face of the conviction, and it seems to be necessary that it should so appear. Upon a conviction under that section, it may be proper, after stating the offence, to proceed as follows:—"And we do adjudge, that for the said offence, being his first offence, the said *John Smith* hath forfeited the sum of 40*l.*, which we direct shall be applied as follows; that is to say, that, in the first place, the sum of 5*l.*, being the expense of the prosecution, shall be paid to *A. B.*; that, in the next place, the sum of 15*l.* shall be paid to *C. D.*, being the party injured by the said offence, as a satisfaction for the same; and that afterwards the sum of 10*l.* shall be paid to *S. S.*, who informed us of the said offence; and that the sum of 10*l.*, being the remainder of the said penalty, shall be paid to the overseers of the poor of the town of *M.* aforesaid, where the said conviction is, to be distributed to and amongst the poor of the said town; and that, in case the said penalty shall not be paid on this conviction, the said *J. S.* shall be committed to the house of correction at , in the said county, for six months, unless the said penalty shall be sooner paid." (*Id. Burn's J.*, 24 ed., Vol. V.)

By sect. 20, "if any person shall think himself or herself aggrieved by the order or judgment of any justices before whom he or she shall have been convicted of any of the offences in the said acts of the twelfth year of the reign of king George the First, and the twenty-second year of the reign of king George the Second, or in this act, such person may appeal, and the said justices are hereby required to make known to such person, at the time of such conviction, his or her right to appeal, to the next

Appeal(b).

(a) As to clauses of this kind, see ante, Vol. I., title "Conviction."

(b) See Vol. I., title "Appeal."

10. *Silk. &c.*
Workmen's
Disputes, &c.

17 Geo. 3, c. 56.

general or general quarter-sessions of the peace to be holden for the county, riding, division, city, liberty, town, or place, where such conviction shall have been made (such person, at the time of such conviction, giving to such justices notice in writing of his or her intention to appeal, and also entering into a recognizance, at the time of such notice, with sufficient sureties, conditioned to try such appeal, and to abide the judgment of, and pay such costs as shall be awarded by, the justices at such sessions); but if the person giving such notice of appeal shall not, at the time of giving such notice, enter into such recognizance as aforesaid, then the justices, to whom such notice of appeal shall have been given, shall and may commit such person or persons to the house of correction, or other public prison, of such county, riding, division, city, liberty, town, or place, there to remain until the said next general or general quarter-sessions of the peace to be holden in and for such place, unless such recognizance shall be sooner entered into; and the said justices before whom such conviction shall have been made, or any other two or more justices of the same county, riding, division, city, liberty, town, or place, are hereby empowered and required to take, and the justices at such sessions are hereby authorized and required, upon due proof made of such notice of appeal, either by the acknowledgment of the justices to whom the same shall have been given, or otherwise, to hear and determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party; and if, upon the hearing of such appeal, the judgment of the justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall, within forty-eight hours next after the same shall be so affirmed, suffer such corporal punishment as shall have been directed to be inflicted upon him or her for the offence whereof he or she shall have been convicted, or shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said sessions shall award to be paid by him or her, for defraying the expenses sustained by the defendant or defendants in such appeal; or, in default of making such payment, shall be committed to the common gaol, or house of correction, in the same manner, and for the same time, to be computed from the affirmance of such conviction, as shall be directed by the original judgment of conviction, unless the person or persons so convicted shall have been imprisoned under the original conviction, in which case the time for which such person or persons shall have been so confined shall be included in the order of confirmation."

Commitment.

Upon a conviction by two justices for an offence against the stat. 17 Geo. III. c. 56, if the justices at the time of such conviction make known to the person convicted his right to appeal, and he declines appealing, they need not proceed to inform him of the necessary steps to be taken by him in order to appeal. (*R. v. The Just. of W. R. of Yorkshire*, 3 M. & Sel. 493. See further, "*Appeal*," Vol. I. p. 146.)

Conviction to be filed.

Certiorari, &c.

Want of form (a).

By sect. 22, "no order made touching or concerning any of the matters in this act contained, or any proceedings to be had touching the conviction of any offender or offenders against the said act of the twenty-second of George the Second, or this act, shall be quashed for want of form, or be removed or removable by *certiorari*, into his majesty's Court of King's Bench; and the justices before whom such convictions shall be had, shall cause the same, drawn up in the form aforesaid, to be fairly written upon parchment, and transmitted to the next general or general quarter-sessions of the peace to be held for the county, riding, division, city, liberty, town, or place, wherein such conviction was had, to be filed and kept amongst the records of the said general or general quarter-sessions; and in case the person or persons so convicted shall appeal from the judgment of the said justices, to the said general or general quarter-sessions, the justices on such

Appeal (b).

(a) As to clauses of this kind, see Vol. I. "*Conviction*."

(b) See Vol. I. "*Appeal*."

general or general quarter-sessions are hereby required, upon receiving the said conviction, drawn up in the form aforesaid, to proceed to the hearing and determination of the matter of the said appeal, according to the direction of the said act, any law or usage to the contrary notwithstanding." 10. *Silk, &c. Workmen's Disputes, &c.*

17 Geo. 3, c. 56.

This section takes away the writ of *certiorari* only from offences for the first time created by 22 Geo. II. c. 27, and does not apply to those created by 12 Geo. I. c. 34, and extended to the silk and cotton trades by 22 Geo. II. c. 27. This was decided in the case of *R. v. Rogers*, 5 B. & Ald. 773; S. C. *In re Kaye*, 1 D. & R. 436, where a rule had been granted for a *certiorari* to remove an order of sessions, confirming a warrant of distress, signed by two justices, for enforcing the payment of wages, from *Thomas Kay* to *William Rogers*, for work done by the latter in the silk manufacture and the cotton manufacture. The wages for which the warrant issued had been previously paid in goods, which payment the justices altogether disallowed. The sessions, on appeal, considered the point of law so doubtful, that they confirmed the order, subject to a special case. The question was, whether the *certiorari* was taken away. *Et per Bayley, J.*, "By the 22 Geo. II. c. 27, a variety of specific offences were created; and that having been done, by the last clause the provisions of the 12 Geo. I. c. 34, were extended to the silk and cotton trade. Now, I think that the best construction we can give to the 17 Geo. III. c. 56, s. 22, on which the question turns, will be to hold, that it extends only to the offences created for the first time by the 22 Geo. II. c. 27. If so, the writ of *certiorari*, in the present case, is not taken away." And the writ was granted.

By the 14 Geo. III. c. 44, s. 1, so much of the 22 Geo. II. c. 27, as relates to the punishment for reeling false and short yarn is repealed. False reeling of yarn.

Sect. 2. "From and after the passing of this act, if any person or persons shall reel false or short yarn, and shall be thereof lawfully convicted by the oath of the owner of such yarn, or in case such owner is one of the people called Quakers, then upon the solemn affirmation of such owner, or of any other credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any one or more justice or justices of the peace of the county, riding, division, city, liberty, town, or place where such offence shall be committed, or where the person or persons so charged shall reside or inhabit (which oath such justice or justices is and are hereby empowered and required to administer), shall, for the first offence, forfeit and pay any sum not exceeding 20s., nor less than 5s.; and for the second offence, any sum not exceeding 5*l.*, nor less than 40s.; and for the third and every other offence, it shall and may be lawful to and for such justice or justices of the peace to commit the person or persons so convicted to the house of correction, or other public prison of such county, riding, division, city, liberty, town, or place, there to be kept to hard labour for the space of one calendar month, and also to order the person or persons so convicted to be once publicly whipped at the nearest market-town to where the offence was committed, and upon a market day; all which penalties and forfeitures shall go to the party aggrieved."

Sect. 3. "The justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following; that is to say,

"Be it remembered, that on the day of , in the year of our Lord , A. B. is convicted before me, , [or, us], of his majesty's justices of the peace for , [specifying the offence, and the time and place when and where the same was committed, and also specifying that it is the first, second, or third offence, against this act, as the case shall be] (b). Given under my hand and seal [or, our hands and seals], the day and year aforesaid."

Form of conviction (a).

Which conviction the said justice or justices shall cause to be fairly wrote

(a) See ante, Vol. I., title "Conviction."

(b) See ante, 521.

10. *Silk, &c.*
Workmen's
Disputes, &c.

14 Geo. 3, c. 44.

Appeal(a).

Costs.

Distress.

Commitment.

Want of form.

Certiorari, &c.

Recovering pe-
nalties for reeling
false or short
yarn.

Regulations in
the counties of

on parchment, and returned to the next general quarter-sessions of the peace for the county, riding, division, city, liberty, town, or place where such conviction was made, to be filed by the clerk of the peace, and remain and be kept among the records of such county, riding, division, city, liberty, town, or place."

Sect. 5. "If any person or persons who shall be convicted as aforesaid, shall be desirous of appealing to the next general or quarter-sessions of the peace to be holden for the county, riding, city, or place, wherein the cause of complaint shall arise, such person may, at the time of such conviction, enter into a sufficient recognizance conditioned to try such appeal, abide the order of, and pay such costs as shall be adjudged by the justices at such sessions; and the said justices, at such sessions, shall and are hereby authorized and required to take cognizance of such appeal, and may affirm such conviction, and award such costs, as they the said justices shall think proper; and in case the same are not paid, according to the order of the said justices, such costs may be recovered by distress and sale of the goods and chattels of the person who ought to pay the same, by warrant under the hand and seal of any justice of the peace for the county, riding, division, city, liberty, town, or place where such person shall be or reside; and if no goods and chattels belonging to such person can be found, sufficient to pay the costs, and the charges of making such distress, the said justices may cause the person to be committed to the common gaol of such county, riding, division, city, liberty, town, or place, there to remain, without bail or mainprize, for the space of three calendar months; and the determination of the said sessions shall be final, binding, and conclusive, to all intents and purposes; and no order made concerning any of the matters aforesaid, or any other proceedings to be had touching the conviction or convictions of any offender against this act, shall be quashed or vacated for want of form, or be removed by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

By the Oath of the Owner of the Yarn.]—This is a singular instance of a conviction on the oath of a person doubly interested,—namely, both as owner of the goods, and as entitled to the whole forfeiture.

(He) shall for the first Offence.]—The word *he* is wanting in the act, to make up the sense.

May affirm such conviction.]—By the word *affirm* being mentioned, and not the word *quash* also, it may be doubted whether the sessions hath hereby sufficient power given to quash the conviction.

By 15 Geo. III. c. 15, "from and after the passing of this act, the several pecuniary penalties inflicted by the said act upon persons who shall be convicted of reeling false or short yarn, together with the costs and charges attending such prosecutions, shall (in case the same are not paid according to the order of the justice or justices before whom such person or persons shall be so convicted) be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant or warrants under the hand and seal, or hands and seals, of the justice or justices before whom such offender or offenders shall be so convicted, together with the costs and charges of making such distress and sale; and if no goods and chattels belonging to such offender or offenders can be found sufficient to answer the said penalties, together with the costs and charges of such distress and sale, then such justice or justices shall and may cause such offender or offenders to be committed to the common gaol or house of correction, of the county, riding, division, city, liberty, town, or place, where such offence shall be committed, there to remain, without bail or mainprize, for the space of one calendar month, unless such penalties and forfeitures, and the reasonable charges of such distress and sale, shall be sooner paid and satisfied."

With respect to the several counties of *York, Lancaster, and Chester,*

(b) See *ante*, Vol. I., title "*Appeal*."

additional regulations are made by the 17 Geo. III. c. 11, which enacts 11. *Leather* that committees of the manufacturers from time to time shall appoint in- *Manufac-*
spectors, who shall examine the reels and yarn, and cause offenders to be *turers' Dis-*
convicted; and for the expenses thereof, a fund shall be established out of *putes, &c.*
the drawbacks of the duty on soap allowed to the manufacturers for soap
consumed in the woollen manufactures. Which regulations, being of con- *York, Lancaster,*
siderable length, and only concerning the said three counties, it is thought *and Chester.*
sufficient to refer to the statute itself.

By the 10 Geo. IV. c. 52, the 4 Geo. IV. c. 34, relative to the powers of 10 Geo. 4, c. 52,
justices in determining complaints between masters and servants, is extended *extends the 4*
“to all persons engaged, whether as masters, servants, apprentices, or other- *Geo. 4, c. 34, to*
wise, in the several manufactures, trades, and occupations,” mentioned in *17 Geo. 3, c. 56.*
the 17 Geo. III. c. 56, *ante*, 511, &c. relative to silk, &c.

By the 5 Geo. IV. c. 96, s. 1, *post*, 544, the 39 & 40 Geo. III. c. 106, 41 *Repeal of acts.*
Geo. III. (U. K.) c. 38, and 44 Geo. III. c. 87, regulating disputes between
masters and workmen in the *cotton manufacture*, are repealed, save and
except in as far as the same may have repealed any prior acts or enact-
ments.

The 3 & 4 Wil. IV. c. 28, repeals the 13 Geo. I. c. 23, which related to
disputes, &c. among persons and servants concerned in the *woollen manu-*
facture, as being unnecessary and injurious, if enforced.

As to the offence of destroying woollen and silk manufactures, &c., and *Destroying wool-*
the implements, &c., used therein, see “*Malicious Injuries to Property.*” *len and silk manu-*
Vol. III. *factures, &c.*

XI. Disputes between Masters and Workmen in Leathern Manufactures.

By the 13 Geo. II. c. 8, s. 4, “if any person or persons, hired or employed, *Workers in lea-*
or to be hired or employed, in cutting, paring, washing, dressing, sewing, *ther embezzling,*
making up, or otherwise manufacturing of gloves, breeches, leather, skins, *&c.,*
boots, shoes, slippers, wares, or other goods or materials to be made use of
in any of the trades or employments, or in manner last mentioned, or in any
branch or particular thereof, shall fraudulently purloin, embezzle, secrete,
sell, pawn, or exchange, all or any part of the gloves, breeches, leather, skins,
parings, or shreds of gloves or leather, or other materials with which he, she,
or they shall be intrusted to work up or manufacture, or shall purloin,
embezzle, secrete, sell, pawn, or exchange any gloves, breeches, boots, shoes,
slippers, or wares, when made, wrought up, or manufactured, or do or wil- *or injuring wares,*
fully permit any other act, whereby to lessen the value of such, or any part *&c.*
of such gloves, breeches, leather, skins, parings, or shreds of gloves or leather,
boots, shoes, slippers, or other wares, last particularized, either before or after
the same shall be respectively so made into wares, and be thereof lawfully
convicted upon the oath or affirmation of the master or owner of such goods
or wares, or any other credible witness or witnesses, or by the confession of
the person or persons charged with the fact, before one or more justice or
justices of the peace for the county, riding, division, city, town, or place,
where such offence shall be committed, or where the party or parties so
charged shall reside or inhabit (which oath or affirmation such justice or
justices is and are hereby empowered to administer and take), such justice *Compensation to*
or justices shall and may award the person or persons so offending, to make *party injured,*
a reasonable and suitable recompense and satisfaction for every offence, to *&c. (a).*
the parties respectively injured, for the damage by them sustained, so as the
same do not exceed double the value of the gloves, breeches, leather, boots,
shoes, slippers, wares, goods, or materials, by such offender or offenders so

(a) It would seem that the 58 Geo. III. c. 51, s. 3, does not apply to this provision.

11. *Leather Manufacturers' Disputes, &c.*

13 Geo. 2, c. 8.
How disposed of.
Distress (a).

Punishment.

Subsequent offence.

Receivers.

Complaints as to wages, &c., how determined.

purloined or embezzled, secreted, sold, pawned, or exchanged; one half thereof to go to the party or parties grieved, and the other half thereof to go and be applied to the use of the poor of the parish or place where such offence shall be committed, together with the full charges attending such conviction, to be levied by warrant under the hand and seal, or hands and seals, of such justice or justices, by distress and sale of the offender's goods, rendering the overplus, upon demand, to the owner; but if such offender or offenders shall not have goods sufficient to answer for levying the forfeitures and the expenses and charges attending the premises, and shall also neglect or refuse immediately to pay the same, that then the said offender and offenders shall, by like warrant of such justice or justices last described, be, for every distinct offence, committed to the house of correction, or other public prison of such county, riding, city, town, or place, and there kept to hard labour for the space of fourteen days, and shall be there likewise whipped, in such manner as the said justice or justices shall order and direct; and in case also of a subsequent conviction for or on a second, or any other such like offence, the person or persons so offending for every second or other subsequent offence, being thereof convicted in manner before-mentioned, shall forfeit four times (b) the value of the damages which the owner or owners of such materials, either before or after the same shall be respectively made up into wares, shall sustain thereby, together with such costs of prosecution as shall be adjudged reasonable by the justice before whom such offender or offenders shall be thereof respectively convicted; and in case immediate payment of the respective forfeitures, together with such costs of prosecution as aforesaid, shall be neglected or refused to be made, that then it shall and may be lawful to and for such justice to commit the offender or offenders last described to the house of correction, or other public prison, to be there kept to hard labour for any time not exceeding three months, nor less than one month, as to such justice shall seem reasonable; and also during the time of such offender or offenders' respective commitment or commitments, shall cause the said offender or offenders to be publicly whipped in the market-town, where such offender or offenders shall be respectively committed, at the market-place or cross of such town, once or oftener, as to such justice shall seem reasonable."

Sect. 5. "Every person and persons who shall knowingly or willingly buy or receive, accept or take, by way of pawn, pledge, or sale, or in any other manner, of or from any or either of the persons offending in either of the particulars in this act last mentioned, or of or from any other person or persons whatsoever (except of or from the person or persons in whom the property of such gloves, breeches, leather, boots, shoes, slippers, wares, goods, or other materials, shall be, at the time of such sale, pawn, or exchange), or offer so to do, such person or persons offending therein respectively, shall, for every offence, being convicted thereof in manner aforesaid, make such suitable and reasonable recompense and satisfaction, within two days next after the matter of fact shall from time to time be determined by any one or more justice or justices as aforesaid, upon hearing the same (he and they being hereby in this respect also empowered so to do), or else be subject to such distress, and for want of sufficient distress, to be liable to the like punishment as is hereby directed to be inflicted on such person or persons as shall purloin, embezzle, secrete, sell, pawn, or exchange any gloves, breeches, leather, boots, shoes, slippers, wares, goods, or other materials, or effects of that sort, as aforesaid, and so in like manner for any second and every other subsequent offence."

Sect. 6, as to the payment of wages in money is repealed by 1 & 2 Wil. IV. c. 36, *ante*, 494, and see now the 1 & 2 Wil. IV. c. 37, *ante*, 495.

Sect. 7. "All wages, demands, frauds, abuses, neglects, and defaults of labourers, manufacturers, and workmen in the trades last above mentioned,

(a) See Vol. I., "*Distress under Justice's Warrant.*"

(b) It would seem that the 58 Geo. III.

c. 51, s. 3, does not apply to this provision.

for or concerning any work done in that manufacture, shall and may be heard and determined by any two justices of the peace of the county, riding, division, city, town, or place, where the matter in controversy shall happen or arise, who are hereby empowered to summon and examine witnesses on oath or affirmation, concerning the same, which oath or affirmation the said justices are to administer and take."

Sect. 8. "All and every person or persons who shall be first retained or employed in the making up of any gloves, breeches, boots, shoes, slippers, or other wares as aforesaid, for any one master, and shall neglect the performance thereof, either by procuring or permitting himself to be subsequently retained or employed by any other master or person whatsoever, before he or they shall have completed the work or service in, or to do which he or they was or were first and originally so retained or employed, and shall be first delivered to him or them; then, and in every such case, every person so offending, being thereof lawfully convicted by the oath or oaths, affirmation or affirmations, of one or more credible witness or witnesses, before one or more justice or justices of the peace, where the offence or offences shall be committed, the person or persons so convicted shall be sent to the house of correction, there to be kept to hard labour for any time not exceeding one month."

12. *Bone and Thread Lace Manufacturers' Disputes, &c.*
13 Geo. 2, c. 8.
Journeyman neglecting work, or quitting service, &c.

Sect. 9. "If any person or persons shall think him, her, or themselves aggrieved by any judgment or order of the said two justices, it shall and may be lawful for such person and persons to appeal from the judgment, order, and determination of the said two justices, to the justices of the peace, at their next general quarter sessions of the peace, to be held for the same county, riding, division, city, town, or place, where the matter in dispute shall arise (giving eight days' notice of such appeal to the person or persons against whom such appeal shall be brought and prosecuted); and such justices of the peace, at their next general quarter-sessions, are hereby empowered to summon and examine witnesses on oath or affirmation (which oath or affirmation they are hereby empowered to administer and take), and to hear and finally determine the matter of the said appeal, and at such quarter sessions shall award and order to the party on whose behalf such appeal is determined, such reasonable costs and charges to be paid by such appellant, or by the person or persons appealed against, in regard of such appeal, as to the said justices, or the major part of them, shall seem meet; but no order made by the said two justices of the peace as aforesaid shall be appealed from, quashed, or vacated for want of form only."

Appeal (a).

See the further provisions of 22 Geo. II. c. 27, *ante*; 509 and *ante*, and the 17 Geo. III. c. 56, s. 17, *ante*, 519.

Further provisions.

XII. Disputes between Masters and Workmen in the Bone and Thread-Lace Manufactures.

The 19 Geo. III. c. 49, s. 1, as to the payment of wages in money, is repealed by stat. 1 & 2 Wil. IV. c. 36, *ante*, 495; and see the present enactment, 1 & 2 Wil. IV. c. 37, *ante*, 495.

Sect. 3. "If any sum or sums of money shall be due and owing to any person or persons employed in the making of any bone or thread lace, for his or her labour, or for the purchase of any such lace, every such person shall and may apply to any justice of the peace for the county, city, or place, where the cause of complaint shall arise; and in case it shall, upon the oath of the party complaining (which oath such justice is hereby empowered to administer), appear to such justice that such money is due and owing, as aforesaid, then such justice shall and is hereby authorized and required to cause the same to be levied and recovered in the same manner as the forfeiture hereinbefore imposed is directed to be levied and recovered."

How wages to be recovered (b).

(a) See in general, *ante*, Vol. I., title "Appeal." c. 49, are not it seems repealed by the 1 & 2 Wil. IV. c. 36, *ante*, 495.

(b) These provisions of 19 Geo. III.

13. *Clock and Watch Maker's Disputes, &c.*

19 Geo. 3, c. 49.
Appeal (a).

Sect. 4. "If any person shall think himself or herself aggrieved by any thing done in pursuance of this act, it shall and may be lawful for any such person to appeal to the justices of the peace at any general quarter sessions to be holden for the county, city, or place, where the act, order, or proceeding, appealed against shall be made or done, within six calendar months next after the making or doing thereof, the person appealing first giving fourteen days' previous notice to the person or persons in whose favour such act, order, or proceeding, shall be made or done, of his or her intention to bring such appeal; and the justices at such quarter sessions are hereby authorized and required to hear and determine the matter of every such appeal, and to make such order therein, and to award such costs to either party as they shall think proper, and by their order or warrant to levy the costs which shall be so awarded by distress and sale of the goods and chattels of the person or persons liable to pay the same, rendering the overplus, if any, to the owner or owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and the determination of the justices in the said quarter sessions shall be final, binding, and conclusive upon all the parties."

XIII. Disputes between Masters and Workmen in the Manufactures of Clocks and Watches.

Workmen embezzling materials put out to work.

First offence.

Second offence.

The 27 Geo. II. c. 7, s. 1, "if any person or persons whatsoever, who shall be hired or employed by any person or persons practising the trade or trades of clock-making or watch-making, or any part or branch, or parts or branches of such trade or trades, to make, finish, alter, repair, or clean, any clock or clocks, watch or watches, or any part or parts of a clock or clocks, watch or watches, or be intrusted by any person or persons practising the said trade or trades, with any gold, silver, or other metal or material to be, or that shall be, in the whole or in part wrought or manufactured for any part or parts of a clock or clocks, watch or watches, or any diamond or other precious stone to be, or that shall be, set or fixed in or about any clock or clocks, watch or watches, shall, after the first day of May, 1754, purloin, embezzle, secrete, sell, pawn, exchange, or otherwise unlawfully dispose of any clock or watch, or any part or parts of any clock or watch, or any gold, silver, or other metal or material, or any part thereof, or any diamond or other precious stone, with which such person or persons shall be intrusted by any person or persons practising the said trade or trades, or any part or branch, or parts or branches of such trade or trades, and shall be thereof convicted by the owner of such goods, or by the oath of any other credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any one or more justice or justices of the peace of the county, riding, division, city, liberty, town, or place, where such offence shall be committed, or where the person or persons so charged shall reside or inhabit (which oath the said justice or justices is and are hereby empowered and required to administer), every such offender shall, for the first offence, forfeit 20*l.*; and in case the said forfeiture shall not be forthwith paid, the justice or justices before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction or other public prison of such county, riding, division, city, liberty, town, or place, there to be kept to hard labour for the space of fourteen days, unless such forfeiture shall be sooner paid; and if, within two days before the expiration of such fourteen days, such forfeiture shall not be paid, the said justice or justices is and are hereby empowered to order the person or persons so convicted to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed; and in case of a further conviction in manner before prescribed by this act, for or upon a

(a) See *ante*, Vol. I., title "Appeal."

second or other subsequent offence of the same kind, the person or persons so again offending, being thereof convicted in manner aforesaid, shall, for every second or other subsequent offence, forfeit 40l.; and in case the said forfeiture shall not be forthwith paid, the justice or justices before whom such conviction shall be had, shall commit the person or persons so again offending to the house of correction or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month, unless the said forfeiture shall be sooner paid; and if within seven days before the expiration of the time for which such offender or offenders shall be committed, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered to order the person or persons so again offending to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable."

13. *Clock and Watch Makers' Disputes, &c.*

27 Geo. 2, c. 7.

Sect. 2. "If any person or persons shall buy, receive, accept, or take by way of gift, pawn, pledge, sale, or exchange, or in any other manner whatsoever, of or from any person or persons whomsoever, any clock or watch, or any part or parts of a clock or watch, or any gold, silver, or other metal or material as aforesaid, whether the same, or any part thereof, be or be not wrought or manufactured, or any diamond, or other precious stone, which shall have been intrusted with any person or persons hired or employed as aforesaid, by any person or persons practising the said trade or trades, he, she, or they, so buying, receiving, accepting, or taking, any such goods, materials, or effects, knowing the same to be so purloined or embezzled, being thereof lawfully convicted in manner before prescribed, for the conviction of persons purloining or embezzling the said goods, materials, or effects, shall, for the first offence, forfeit 20l.; and in case the said forfeiture shall not be forthwith paid, the justice or justices, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or other public prison as aforesaid, there to be kept to hard labour, for the space of fourteen days, unless the said forfeiture shall be sooner paid; and if, within two days before the expiration of the said fourteen days, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered and required to order the person or persons, so convicted, to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed, once or oftener, as to such justice or justices shall appear reasonable; and in case of a further conviction for or upon a second or any other subsequent offence of the same kind, the person or persons so again offending, being thereof convicted in manner before prescribed, shall, for every second or other subsequent offence, forfeit 40l.; and in case the said forfeiture shall not be forthwith paid, the justice or justices, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month, unless the said forfeiture shall be sooner paid; and if, within seven days before the expiration of the time for which such offender or offenders shall be so committed, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered and required to order such offender or offenders to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable; and the said respective forfeitures, when recovered, after satisfaction shall have been made thereout to the party or parties injured, together with such costs of prosecution as shall be judged reasonable by the justice or justices before whom such conviction shall have been had, shall be paid and applied to and for the use of the poor of the parish or place where the person or persons so convicted shall reside or inhabit."

Receivers.

First offence.

Second offence.

Sect. 3. "If any person convicted as aforesaid, of purloining, embezzling, Appeal(a).

(a) See *ante*, Vol. I., title "Appral."

13. *Clock and Watch Makers' Disputes, &c.*

27 Geo. 2, c. 7.

secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of, or of buying, receiving, or taking to pawn any of the goods, materials, or effects hereinbefore mentioned, shall think himself or herself aggrieved by the judgment of the justice or justices before whom he or she shall have been convicted, such person shall have liberty to appeal to the justices at the next general or quarter sessions of the peace, which shall be held for the county, riding, division, city, liberty, town, or place, where such judgment shall have been given; and that the execution of the said judgment shall in such case be suspended, the person so convicted entering into a recognizance at the time of such conviction, with two sufficient sureties, in double the sum which such person shall have been adjudged to forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices in the said general or quarter sessions; which recognizance the said justice or justices before whom such conviction shall be had, is and are hereby empowered and required to take; and the justices in the said general or quarter sessions are hereby authorized and required to hear and finally determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party; and if, upon the hearing of the said appeal, the judgment of the justice or justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said general or quarter sessions shall award to be paid by him or them for defraying the expenses sustained by the defendant or defendants in such appeal; or, in default of making such payments, shall suffer the respective pains and penalties by this act inflicted upon persons respectively who shall neglect to pay, or shall not pay the respective forfeitures by this act imposed upon such persons respectively, who shall be convicted of purloining, embezzling, secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of any of the goods, materials, or effects hereinbefore mentioned, or of persons buying, receiving, or taking to pawn any such goods, materials, or effects."

Conviction to be filed.

Sect. 4. "The justice or justices of the peace before whom any person shall be convicted, in manner prescribed by this act, of purloining, embezzling, secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of, or of buying, receiving, or taking to pawn, any of the goods, materials, or effects aforesaid, shall cause such respective conviction to be drawn up in the form and words following: that is to say,—

Form of conviction (a).

"*Middlesex*, } *Be it remembered, that on the* *day of* , *in the*
 to wit. } *year of his majesty's reign, A. B. was convicted before me,*
 [or, us], } *of his majesty's justices of the peace for the said county of* ,
 [or, for the } *riding, or division of the said county of* , or, *for the city,*
liberty, or town of , *in the said county of* , *as the case shall be*], *of*
purloining, embezzling, secreting, selling, pawning, exchanging, or unlawfully
disposing of, or of buying, receiving, or taking to pawn [as the case shall happen
 to be], [specifying the respective goods, materials, or effects], *the property of*
C. D., of , *in the county of* . *Given under my hand and seal, [or,*
our hands and seals], the day and year aforesaid."

Which said form and conviction shall not be liable to be removed by *certiorari* into his majesty's Court of King's Bench; and the said justice or justices before whom such conviction shall be had, shall cause the same, drawn up in the form aforesaid, to be fairly written upon parchment, and transmitted to the next general or quarter sessions of the peace, to be held for the county, riding, division, city, town, or liberty, wherein such conviction was had, to be filed and kept amongst the records of the said general or quarter sessions; and in case any person or persons so convicted shall appeal from the judgment of the said justice or justices to the said general or quarter session, the

(a) See Vol. I., title "*Conviction*." See *ante*, 521.

justices in such general or quarter sessions are hereby required, upon receiving the said conviction, drawn up in the form aforesaid, to proceed to the hearing and determination of the matter of the said appeal, according to the directions of this act; any law or usage to the contrary notwithstanding." 15. *Husbandry Servants' Disputes, &c.*

27 Geo. 3, c. 7.

Warrant of apprehension.

Sect. 5. "It shall and may be lawful to and for any one justice of the peace of any county, riding, division, city, liberty, town, or place, and he is hereby required, upon complaint to him made upon oath of any offence committed against this act within the same county, riding, division, city, liberty, town, or place, to issue his warrant for apprehending and bringing before him, or before any other justice or justices of the peace of the same county, riding, division, city, liberty, town, or place, the person or persons charged with such offence: and the justice or justices before whom such person or persons shall be brought, is and are hereby authorized and required to hear and determine the matter of every such complaint, and to proceed to conviction and judgment thereupon."

XIV. Disputes between Paper-Makers and Workmen.

The 5 Geo. IV. c. 95, s. 1, repeals the 36 Geo. III. c. 111; and the 6 Geo. IV. c. 129, repeals the 5 Geo. IV. c. 95, except as to its repealing clauses.

XV. Disputes between Masters and Servants in Husbandry, Artificers, Calico-Printers, Handicraftsmen, Miners, Colliers, Keelmen, Pitmen, Glassmen, Potters, and other Labourers, and Servants in Husbandry.

By construction of law upon the 5 Eliz. c. 4, the justices had a power of compelling the payment of the wages which they had rated and assessed; but that statute being deficient in two material points, to wit, in extending only to such wages as should be rated, and to servants in husbandry only; and moreover there being therein (as hath been observed) no power to admit the servant's oath in evidence: therefore, Justices may hear and determine complaints by certain servants as to wages (a).

By the 20 Geo. II. c. 19, after reciting, that the "laws now in being, for the better regulation of servants, and for the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient and defective;" for remedy whereof it is enacted, that after the 25th March, 1747, "all complaints, differences, and disputes, which shall happen and arise between masters or mistresses, and servants in husbandry, who shall be hired for one year, or longer, [see 31 Geo. II. c. 11, s. 3, *post*, 533] or which shall happen or arise between masters and mistresses, and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers employed for any certain time, or in any other manner, shall be heard and determined (a) by one or more justice or justices of the peace of the county, riding, city, liberty, town corporate, or place, where such master or mistress shall inhabit (although no rate or assessment of wages (b) has been made that year by the justices of the peace of the shire, riding, or liberty, or by the mayor, bailiffs, or other head officers, where such complaints shall be made, or where such differences or disputes shall arise), which said justice or justices is and are hereby empowered to examine upon oath any such servant,

(a) Form (No. 2), *post*. See the 4 Geo. IV. c. 34, s. 4, as to recovery of wages in absence of masters, *post*, 536.

(b) These words imply that the legislature did not contemplate *all* labourers, but those only with reference to whom the justices had power to make a rate of

wages, per Bayley, J., in *Branwell v. Penneck*, 7 B. & Cres. 539, and 1 M. & R., 409, *post*; and see the 5 Eliz. c. 4, and 1 Jac. I. c. 6, repealed by 53 Geo. III. c. 40, *ante*, 493, as to what labourers' wages the magistrates could formerly settle.

15. <i>Husbandry</i> <i>Servants' Dis-</i> <i>putes, &c.</i>	artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, or any other witness or witnesses, touching any such complaint, difference, or dispute, and to make such order (a) for payment of so much wages to such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, as to such justice or justices shall seem just and reasonable, provided that the sum in question do not exceed 10 <i>l.</i> with regard to any servant, nor 5 <i>l.</i> with regard to any artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer; and in case of refusal or nonpayment of any sums so ordered, by the space of one-and-twenty days next after such determination (c), such justice and justices shall and may issue forth his and their warrant (d) to levy the same by distress and sale of the goods and chattels of such master or mistress, or person employing such artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, rendering the overplus to the owners, after payment of the charges of such distress and sale."
20 Geo. 2, c. 19.	
Distress (b).	
Justices may hear master's complaints,	By sect. 2, (the powers given by which are enlarged by the 4 Geo. IV. c. 34, <i>post</i> , 535) "it shall and may be lawful to and for such justice or justices, upon application or complaint (e) made, upon oath, by any master, mistress, or employer, against any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer, touching or concerning any misdemeanor, miscarriage, or ill-behaviour, in such his or her service or employment (which oath such justice or justices is and are hereby empowered to administer), to hear, examine, and determine the same; and to punish the offender by commitment (f) to the house of correction, there to remain and be corrected (g), and held to hard labour for a reasonable time, not exceeding one calendar month, or otherwise by abating some part of his or her wages, or by discharging such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer, from his, her, or their service or employment: and in like manner also it shall and may be lawful to and for such justice or justices, upon any complaint or application, upon oath, by any such servant (h), artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, against such master, mistress, or employer, touching or concerning any misuse, refusal of necessary provision, cruelty, or other ill-treatment of, to, or towards such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, and to summon (i) such master, mistress, or employer to appear before such justice or justices, at a reasonable time to be prefixed in such summons; and such justice or justices shall and may examine into the matter of such complaint, whether such master, mistress, or employer shall appear or not; proof being made, upon oath, of his or her being duly summoned; and upon proof thereof made, upon oath, to his or
and may punish offender by commitment, abatement of wages, or dismissal.	
May hear servants' complaints,	
and discharge the servant.	

(a) Form (No. 4), *post*.

(b) See in general Vol. I., title "**Distress under Justice's Warrant.**"

(c) But by the 4 Geo. IV. c. 34, s. 5, *post*, every justice or justices of the peace, before whom any complaint shall be made in pursuance of the 20 Geo. II. c. 19, or of the 31 Geo. II. c. 11, shall and may order the amount of the wages that shall appear due to any servants in husbandry, artificers, labourers, or other persons named in the said acts, or either of them, to be paid to the person entitled thereto within such period as the said justice or justices shall think proper; and in case of refusal or non-payment thereof, shall and may levy the same by distress and sale, in manner directed by the said

first-mentioned act; and every order or determination of such justice or justices made under this act, shall be final and conclusive, any thing in either of the said acts contained to the contrary in any wise notwithstanding.

(d) Form (No. 5), *post*. The master, &c. cannot be committed, though there be no distress. (*Wiles v. Cooper*, 1 *H. & W.* 560.)

(e) Form (No. 6), *post*.

(f) Form (No. 8), *post*.

(g) By the 1 Geo. IV. c. 57, the punishment of whipping females is abolished. See *post*, "**Women.**"

(h) Form (No. 9), *post*.

(i) Form (No. 10), *post*.

their satisfaction, to * discharge (a) such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, of and from his said service and employment; which discharge shall be given under the hand and seal or hands and seals of such justice or justices *gratis*." 15. *Husbandry Servants' Disputes, &c.*
20 Geo. 2, c. 19.

Sects. 3 & 4 of this act relate to apprentices. See "*Apprentices*," Vol. I. * *Sic.*

Sect. 5. "If any person or persons shall think himself, herself, or themselves aggrieved by such determination, order, or warrant of such justice or justices as aforesaid (save and except any order or commitment), he, she, or they may appeal to the next general quarter-sessions of the peace to be held for the county, riding, liberty, city, town corporate, or place where such determination or order shall be made; which said next general quarter-sessions is hereby empowered to hear and finally determine the same, and to give and award such costs to any of the respective persons, appellant or respondent, as the said sessions shall judge reasonable, not exceeding 40s.; the same to be levied by distress and sale, in manner before mentioned." Appeal (b).

Sect. 6. "No writ of *certiorari*, or other process, shall issue or be issuable to remove any proceedings whatsoever, had in pursuance of this act, into any of his majesty's courts of record at Westminster." *Certiorari.*

The 27 Geo. II. c. 6, s. 1, repeals the seventh section of the 20 Geo. II. c. 19.

Sect. 2. "From and after the first day of May all the provisions and regulations in the said act mentioned and contained, relating to servants in husbandry, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers, shall extend to such tanners and miners as are or shall be employed in the stannaries in the counties of Devon and Cornwall respectively, as fully and effectually, to all intents and purposes, as if the said provisions and regulations were herein particularly repeated and set forth; any law, statute, usage, privilege, or jurisdiction whatsoever, to the contrary in any wise notwithstanding." Provisions extended to tanners, &c.

Sect. 3. "Nothing in this act contained shall be construed to hinder or restrain any person from applying to the stannary courts, or to the warden, vice-warden, or stewards of the stannaries, in relation to any of the matters hereinbefore mentioned, in the same manner as such person might have done before the making of this act." *Stannary courts.*

The 31 Geo. II. c. 11, s. 3, after reciting the 20 Geo. II. c. 19, s. 1, and that doubts have arisen whether the words, "any labourers employed for any certain time, or in any other manner," extend to servants in husbandry hired for a less time than one year, for obviating the said doubts, enacts, "that the said act, and all and every clause and matter therein contained, shall be deemed and construed to extend to all servants employed in husbandry, though hired for a less time than one year; any thing in the said recited act of the twentieth year of his present majesty's reign or any other act contained to the contrary notwithstanding." 17 Geo. 3, c. 56, extended to servants in husbandry, though hired for less than a year.

By 6 Geo. III. c. 25, s. 4, reciting, that "it frequently happens that artificers, calico-printers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, labourers, and others, who contract with persons for certain terms, do leave their respective services before the terms of their contracts are fulfilled; to the great disappointment and loss of the persons with whom they so contract:" for remedy thereof enacts, "that from and after the said twenty-fourth day of June, 1766, if any *artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer*, or other person, shall contract with any person whomsoever for any time or times whatsoever, and shall absent himself from his service before the term of his contract shall be completed, or be guilty of any other misdemeanor, that then, and in every such case, it shall and may be lawful Justices may grant warrants against artificers, &c. not fulfilling their contract, or being guilty of a misdemeanor,

(a) Form (No. 11), *post*.

(b) See in general Vol. I., title "*Apprentices*."

15. *Husbandry
Servants' Dis-
putes, &c.*

6 Geo. 3, c. 25.

and commit of-
fender.

* *Sic.*

Appeal (*d*).

Costs.

Stannaries.

Colliers and
others working
coal contrary to
their agree-
ments; or not
fulfilling their
contracts.

for any justice of the peace of the county or place where any such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall be found, and such justice is hereby authorized and empowered, upon complaint (*a*) thereof made upon oath to him by the person with whom such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall have so contracted, or by his or her steward or agent, which oath such justice is hereby empowered to administer, to issue his warrant (*b*) for the apprehending every such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, and to examine into the nature of the complaint; and if it shall appear to such justice that any such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall not have fulfilled such contract, or hath been guilty of any misdemeanor, it shall and may be lawful for such justice to commit (*c*) every such person to the house of correction for the county or place where such justices * shall reside, for any time not exceeding three months, nor less than one month."

Sect. 5. "If any person shall think himself aggrieved by such determination, order, or warrant, of any justice of the peace as aforesaid, (except an order of commitment,) (*e*) every such person may appeal to the next general quarter-sessions of the peace to be held for the county or place where such determination or order shall be made; such person giving six days' notice of his intention of bringing such appeal, and of the cause and matter thereof, to such justice of the peace and the parties concerned, and entering into a recognizance within three days after such notice, before some justice of the peace for such county or place, with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by, the justices at such quarter-sessions; which said justices, at their said sessions, upon due proof of such notice being given, and of entering into such recognizance as aforesaid, shall and are hereby directed to proceed in, hear, and determine, the causes and matters of all such appeals; and shall give such relief and costs to the parties appealing or appealed against, as they, in their discretion, shall judge proper and reasonable; and their judgments and orders therein shall be final and conclusive to all parties concerned."

Sect. 6. "Nothing in this act contained shall extend to the stannaries in the counties of Devon and Cornwall, or to impeach or lessen the jurisdiction of the chamberlain of the City of London, or of any other court within the said city, touching apprentices."

By 39 & 40 Geo. III. c. 77, s. 3, reciting "it often happens that colliers and miners, disregarding their agreements, wilfully and obstinately work coal and iron stone in a different manner to what they stipulated, or otherwise abandoned the agreement they have entered into, to the great and lasting prejudice of their employers," it is enacted, "that if any person or persons making any bargain, or entering into any contract or agreement in writing, for raising or getting any coal, culm, iron stone, or iron ore, shall wilfully, and to the prejudice of the owner, raise, get, or work, or cause to be raised, got, or worked, any such coal, culm, iron stone, or iron ore, in a different manner to his or their stipulations in respect thereto, and contrary to the directions, and against the will of the owner, or his agent or agents having the care thereof, or shall desist or refuse to fulfil the engagements they have entered into, every person or persons so offending, and being thereof convicted, either by the confession of the party offending, or upon the oath of one or more credible witness or witnesses, before one or more of

(*a*) Form (No. 12), *post*.

(*b*) Form (No. 13), *post*.

(*c*) Form (No. 14), *post*. (See *R. v. Cooper*, 6 *T. R.* 509, *post*.) It will be observed that this act does not authorize

the discharge of the servant.

(*d*) See Vol. I., title "**Appeal**."

(*e*) See *R. v. Staffordshire*, 12 *East*, 572, *post*, 541.

his majesty's justices of the peace for the county wherein such offence shall have been committed, shall, for every such offence, on complaint of the owner or owners, or his or their agent or agents, and not otherwise, forfeit and pay such sum of money, not exceeding 40s., as to such justice or justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice or justices who shall convict the offender or offenders; and upon non-payment thereof, such justice or justices shall commit the offender or offenders to the common gaol of the county or place where the offence shall be committed, without bail or mainprize, for any time not exceeding six months, or until the penalty and charges shall be paid; and upon such conviction, every such bargain, contract or agreement shall become void."

15. *Husbandry Servants' Disputes, &c.*

39 & 40 Geo. 3,
c. 77.

Sect 4. "And whereas the owners and lessees of coal, iron stone or iron ore, contracting to get the same raised by weight, are often under the necessity of advancing money to the colliers and miners upon the measure thereof in heaps, at or near the colliery or mine work, before the same can be carried to be weighed, and great frauds are practised in the walling and stacking of such coal, iron stone and iron ore, by which the colliers and miners obtain money beyond what they earn or are able to repay, and miners often defraud each other by conveying away iron stone from one heap into another;" it is therefore enacted, "that if any person or persons shall wall or stack, or cause to be walled or stacked, any coal, iron stone, or iron ore, in any false or fraudulent manner, with an intent to deceive his or their employer or employers, or if any person or persons shall take and remove any iron stone or iron ore, with intent to defraud the person or persons who shall have raised the same, and shall be thereof convicted, either by the confession of the party offending, or upon the oath of one or more credible witness or witnesses, before any one or more justice or justices of the peace for the county wherein such offence shall have been committed, it shall and may be lawful for such justice or justices to commit any such person to the house of correction or common goal for the same county, for any time not exceeding three months."

Fraudulently walling or stacking coal, iron stone, &c.

The 4 Geo. IV. c. 34, after reciting, in s. 1, the 20 Geo. II. c. 19, and the 6 Geo. III. c. 25, enacts (s. 3) "that if any *servant in husbandry or any artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person*, shall contract with any person or persons whomsoever, to serve him, her, or them, for any time or times whatsoever, or in any other manner, and shall not enter into or commence his or her service according to his or her contract (such contract being in writing, and signed by the contracting parties), or having entered into such service shall absent himself or herself from his or her service before the term of his or her contract, whether such contract shall be in writing or not in writing, shall be completed, or neglect to fulfil the same, or be guilty of any other misconduct or misdemeanor in the execution thereof, or otherwise respecting the same, then and in every such case it shall and may be lawful for any justice of the peace of the county or place where such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall have so contracted, or be employed or be found, and such justice is hereby authorized and empowered, upon complaint thereof made upon oath to him by the person or persons, or any of them, with whom such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person shall have so contracted, or by his, her, or their steward, manager, or agent, which oath such justice is hereby empowered to administer, to issue his warrant for the apprehending every such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, and to examine into the nature of the complaint; and if it shall appear to such justice that any such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall not have

Servants in husbandry, artificers, &c., not fulfilling contracts, &c., guilty of misdemeanor.

Justice may commit to prison.

15. *Husbandry
Servants' Dis-
putes, &c.*

4 Geo. 4, c. 34.

Or abate wages
or discharge ser-
vant.

Recovery of
wages in cases of
absence of mas-
ters, &c.

Justices may or-
der payment of
wages upon com-
plaint made, pur-
suant to 20 Geo. 2,
c. 19, 31 Geo. 2,
c. 11.

fulfilled such contract, or hath been guilty of any other misconduct or misdemeanor as aforesaid, it shall and may be lawful for such justice to commit every such person to the house of correction, there to remain and be held to hard labour for a reasonable time, not exceeding three months, and to abate a proportionable part of his or her wages, for and during such period as he or she shall be so confined in the house of correction, or in lieu thereof (a), to punish the offender by abating the whole or any part of his or her wages, or to discharge such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person from his or her contract, service, or employment, which discharge shall be given under the hand and seal of such justice *gratis*."

Sect. 4, after reciting that "it frequently happens that such masters, mistresses, or employers reside at considerable distances from the parishes or places where their business is carried on, or are occasionally absent for long periods of time, either beyond the seas, or at considerable distances from such parishes or places, and during such residence or occasional absences entrust their business to the management and superintendence of stewards, agents, bailiffs, foremen, or managers, whereby such servants, artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, labourers, or other persons and apprentices, are or may be subjected to great difficulties and hardships, and put to great expense in recovering their wages;" enacts, "that, in either of the said cases, it shall and may be lawful to and for any justice or justices of the county or place where such servant in husbandry, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person or apprentice shall be employed, upon the complaint of any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person or apprentice, touching or concerning the non-payment of his or her wages, to summon such steward, agent, bailiff, foreman, or manager, to be and appear before him or them at a reasonable time to be named in such summons, and to hear and determine the matter of the complaint in such and the like manner as complaints of the like nature against any master, mistress, or employer are directed to be heard and determined in and by this and the before-recited acts, and also to make an order for the payment by such steward, agent, bailiff, foreman, or manager, to such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person or apprentice, of so much wages as to such justice or justices shall appear to be justly due; provided that the sum in question do not exceed the sum of 10*l.*; and in case of refusal or non-payment of any sum so ordered to be paid by such steward, agent, foreman, bailiff, or manager, for the space of twenty-one days from the date of such order, such justice or justices as aforesaid shall and may issue forth his or their warrant to levy the same by distress and sale of the goods and chattels of such master, mistress, or employer, rendering the overplus to the owner or owners, or to such steward, agent, bailiff, foreman, or manager, for the use of such master, mistress, or employer, after payment of the charges of such distress and sale (b)."

Sect. 5. Every justice or justices of the peace before whom any complaint shall be made in pursuance of the said recited act, 20 Geo. II. c. 19, or the 31 Geo. II. c. 11, shall and may order the amount of the wages that shall appear due to any servants in husbandry, artificers, labourers, or other person named in the said acts, or either of them, to be paid to the person entitled thereto, within such period as the said justice or justices shall think proper; and, in case of refusal or non-payment thereof, shall and may levy the same by distress and sale, in manner directed by the said first-mentioned act; and every order or determination of such justice or justices made under this act shall be final and conclusive, any thing in either of the said acts contained to the contrary in anywise notwithstanding.

(a) See *Lancaster v. Greaves*, *Chit. Col. Stat.* 874, *post*, 539.

(b) A commitment cannot be made.

See in general Vol. I., title "**Distress under Justice's Warrant.**"

By the 10 Geo. IV. c. 52, the provisions of this act of 4 Geo. IV. are extended to the servants named in the 17 Geo. III. c. 56. 15. *Husbandry Servants' Disputes, &c.*

[*Decisions on the foregoing enactments.*]—In order to found the jurisdiction of magistrates to order payment of wages under the above statutes of 20 Geo. II. c. 19; 31 Geo. II. c. 11; and 4 Geo. IV. c. 36, it should distinctly appear on the order that the party complaining was a servant within the meaning of the acts, and that the relation of master and servant existed between him and the party complained against. Such facts appearing in evidence is not sufficient. (*Wiles v. Cooper*, 1 H. & W. 560.)

It was formerly supposed, that the words in the statute 20 Geo. II. c. 19, "and other labourers," meant only labourers in any of the enumerated trades; but in the case of *Lowther v. the Earl of Radnor and Eyre*, 8 East, 113, they received a more enlarged construction. To an action of trespass for taking the plaintiff's goods, the defendants, who were justices of the peace for the county of Wilts, justified under this statute; and, on the trial, a special case was reserved for the opinion of the Court of King's Bench. On the 27th of November, 1804, the defendants made this order:—"Wilts, to wit. To *T. Lawes*, one of the tithingmen, &c. Whereas *J. Sopp*, of, &c., labourer, hath complained unto *J. T. B.*, one of the justices, &c., that *G. Lowther*, Esq., of, &c., refused to pay unto him, the said *Sopp*, 4*l.* 13*s.* 6*d.* for wages justly due to him for work and labour done by the said *J. Sopp* and by *T. Franklin*, in the service of the said *G. Lowther*, by digging and steaning part of a well at," &c. The order then stated that Mr. *Lowther* was summoned to answer the complaint, but that he did not appear, and that the defendants, as justices, examined, at the time and place appointed, into the complaint, and adjudged it to be true, and ordered Mr. *Lowther* to pay the money to *J. Sopp*. Mr. *Lowther* appealed to the Wiltshire quarter-sessions against this order, where the order was affirmed. After this, the two defendants made a warrant of distress against Mr. *Lowther*, stating all the above facts, under which the plaintiff's goods were taken. The case also stated, that "steaning a well" means lining it with stones and mortar. That *Sopp* had, on other occasions, been employed by the plaintiff as a labourer in husbandry. That the work was performed under a contract between the plaintiff and *Sopp*, by which the latter undertook to dig the well of a sufficient depth to supply the plaintiff's cattle with water, and for which, when it was deep enough to give a supply of water, he was to receive 2*s.* per foot. That, in the execution of the work, *Sopp* was to employ whom he pleased to assist him, but the money was to be paid to *Sopp* alone. And that *Sopp* had before done other work for the plaintiff, for which he was paid by the piece, and not by the day. For the plaintiff, it was contended, 1st, that the justices had no jurisdiction to make the original order; 2ndly, if they had, that they exceeded their jurisdiction, by ordering the money, which had been earned by *Sopp* and *Franklin*, to be paid to *Sopp* alone; 3rdly, that the plaintiff was not precluded from bringing his action by having appealed to the sessions. In the course of the argument, the court seemed to think that the second point was answered by the facts of the case, the contract having been made by *Sopp* alone, who was at liberty to employ any one under him: but they gave a decided opinion on the third point, that, if there were no original jurisdiction in the magistrates making the order, the appeal would not give it. On the principal question, however, the court took time to consider of their opinion, which was afterwards delivered by Lord *Ellenborough*, C. J.:—"The question arising on this special case depends on the terms of the complaint made to the magistrates, as recited in the order of the 27th of November 1804; and how far the terms of that complaint bring the complainant within the provisions of the 20 Geo. II. c. 19. This complaint must be taken to be true in the terms of it; no evidence appearing to have been laid before the magistrates to contradict or vary it, and they having adjudged the same to be true. By this it appears that *Sopp* was a labourer; for he is described as '*J. Sopp*, of Shrewton, labourer;' and that his demand was for wages due to him for work and labour done by himself and another person, *T. Franklin*; by which must be understood, that *Sopp* was employed

4 Geo. 4, extended to servants named in 17 Geo. 3, c. 56.

It must appear on order that the character of master and servant exists.

Who are labourers and servants within the acts.

15. *Husbandry Servants' Disputes, &c.*

to do the work either by the day or the piece, and that *Franklin* assisted *Sopp* in the work, under the retainer of *Sopp*, and not of Mr. *Lowther*; a common practice with labourers, as well in husbandry as in other business. Is *Sopp* then such a labourer as is by the 20 Geo. II. c. 19, subjected to the jurisdiction of the justices of the peace; and, of course, entitled to the benefit of that jurisdiction, to recover his wages, being under 5*l.*, by their summary process? The 20 Geo. II. c. 19, begins by reciting, that 'the laws now in being for the better regulation of servants, and for the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient and defective,' and for remedy enacts, that all complaints, differences, and disputes, which shall happen and arise between masters or mistresses, and servants in husbandry, who shall be hired for one year or longer, or which shall happen or arise between masters and mistresses, and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers, employed for any certain time or in any other manner, shall be heard or determined by one or more justice or justices, although no rate or assessment of wages has been made that year by the justices. The 31 Geo. II. c. 11, s. 3, recites the 20 Geo. II. c. 19, and that doubts had arisen whether the words, 'any labourers employed for any certain time, or in any other manner,' extend to servants in husbandry hired for a less time than a year; and, for obviating the said doubts, enacts, that the said act and every clause and matter therein contained shall extend to all servants employed in husbandry, though hired for a less time than a year. In the argument of this case, it was contended that *Sopp* did not come within the meaning of the act of Parliament, 20 Geo. II. c. 19, because he was not a servant in husbandry, nor a servant or labourer in any of the trades, callings, or employments enumerated in that act; and that the words used in the act, 'other labourers employed for any certain time or in any other manner,' meant labourers in any of the enumerated trades only, and not labourers generally. With the first part of the argument, that he is not to be taken as a servant in husbandry, we agree; because he is not stated to be so in the order or complaint; and we cannot intend any thing to give the justices jurisdiction beyond what appears in the order. (*R. v. The Inhabitants of Hulcott*, 6 T. R. 583.) But we cannot accede to the latter part of the argument, that the operation of the statute is to be confined to labourers in the several enumerated employments. The most obvious construction is not so to confine it; and no case has been stated where the construction has been so confined. The mischief recited in the preamble of the act is general, viz. that the laws in being for the better regulation of servants, and the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient. The remedy provided by the act is, that all differences between masters or mistresses and servants in husbandry, who shall be hired for a year or longer (these words certainly restrain the operation of the remedy, as to servants, to those in husbandry only, and to such as are hired for a year or longer; the act then proceeds), or (differences) which shall happen or arise between masters and mistresses and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers employed for any certain time, or in any other manner. Now, unless these words, 'other labourers,' mean to comprehend a different description of persons from those before particularly mentioned, it is difficult to account for their insertion at all; but applying them to other labourers in any other trade or business, the sense will be perfect, and each word will have its meaning. But it may be said, that if such an extensive construction be put on these last words of the sentence, the former part, specifying certain trades, becomes nugatory. That, however, will not follow; for artificers, handicraftsmen, miners, &c., do not necessarily or properly fall under the denomination of labourers; there being, as I take it, a known distinction between a journeyman in any art, trade, or mystery, or other workmen employed in the different branches of it, and a labourer. It does not appear to us to be an objection to this construction, that by other acts of parliament, passed subsequent to the 20 Geo. II., workmen or labourers in other particular

Statute not confined to labourers in enumerated employments.

trades or manufactures, or labourers generally, are subjected to certain regulations, which appear to clash with some of the provisions of this act; as the 22 Geo. II. c. 27, s. 9, for regulating certain manufactures therein mentioned; and the 6 Geo. III. c. 25, for better regulating apprentices and persons working under contract; and other statutes which may be pointed out. The true answer seems to be, that, at the time of passing one act, the legislature has not always had every other act containing provisions bearing on the same subject brought under its consideration. The act now under our consideration appears to have had for its object the affording to certain servants and workmen, and to labourers in general, a speedy, easy, and cheap mode of recovering their wages, when they amount to a small sum; and to masters an easy method of correcting trifling misdemeanors and ill behaviour in their workmen and labourers. These benefits are by the words of the act extended to servants in husbandry, to workmen in different branches of trade, and to *other labourers* employed for any certain time or in any other manner. The latter words are as general as may be; and we cannot find any reason in law or policy to say that they do not comprehend the case of Sopp, as stated in the order of the two magistrates. For these reasons, we are of opinion, on the questions submitted to us by the special case, that the justices making the original order had jurisdiction to make that order; and of course that the quarter sessions had jurisdiction to make the order on the appeal." And judgment was given for the defendants.

The 20 Geo. II. c. 19, was not intended to include all labourers, but those only with reference to whom the justices had power to make a rate of wages (*per Bayley, J., 7 B. & Cres. 539; 1 M. & R. 409*).

The acts extend only to cases where the relation of *master* and *servant* exclusively exists. They do not extend therefore to any case where work is done under a contract for a sum certain, or when the hours of work are entirely left in the discretion of the contracting party; and therefore, where A. had contracted with B. to build a wall for a certain price, within a certain time, and having performed a part of the work, refused to complete it, this was held not to be within the 4 Geo. IV. c. 34, s. 3, and that a magistrate, who acted upon the complaint of B. and convicted and committed A. to prison, was liable to an action for false imprisonment. (*Lancaster v. Greaves, 9 B. & C. 628.*)

So, where A. contracted with B. to *weave* for him certain pieces of silks at certain prices, agreed on between them, it was held, on a commitment stating such a contract, that A. was not a servant within the 4 Geo. IV. c. 3 & 4, s. 3, and that the magistrates had no jurisdiction over him. (*Hardy v. Ryle, 9 B. & C. 603.*)

And in another case it was held that a person whose name is added to that of the regular officer in a warrant, under a *fi. fa.*, by the plaintiff's attorney, and who is employed to watch the goods after they have been taken by the officer, is not a labourer within the jurisdiction of the justices under the 20 Geo. II. c. 19; (*Bramwell v. Penneck, 1 M. & R. 409, 1 M. & R. M. C. 109; 7 B. & C. 536, S. C.*;) and *Bayley, J.*, delivered his judgment in that case as follows: "I am of opinion that the magistrate had not any jurisdiction to make the order for payment of wages to *Richards*; for it seems to me that *Richards* was not that sort of labourer, nor the service rendered by him that sort of labour, which is mentioned and intended in the 20 Geo. II. c. 19. That statute recites, that the existing laws for payment of wages to servants, and to artificers, handicraftsmen, and labourers, were defective, and then provides a mode of settling disputes between masters and certain descriptions of persons and other labourers, *although no rate or assessment of wages has been made that year by the justices of the peace for the shire, &c.* where such complaint shall be made, or such dispute arise. Those words imply, that the legislature did not contemplate all labourers, but those only with reference to whom the justices had power to make a rate of wages. Now, looking at the statute 5 Eliz. c. 4, the justices are thereby empowered to settle the rate of wages 'of such artificers, handicraftsmen, husbandmen, or other labourers, servants, or workmen, whose wages had in

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s. 3.

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time past been fixed by law, and also of all other labourers, artificers, workmen, or apprentices of husbandry, whose wages had not been fixed; and these wages are to be fixed by the year, day, week, or month, and what wages every workman or labourer shall take by the great, for mowing, reaping, or threshing of corn, or for mowing or making of hay, or for ditching, paving, &c., and for any other kind of reasonable labour and service.' This latter part shows that the legislature had principally in view out-door work or country labour. And the statute appears to have received this construction; for by the 1 Jac. I. c. 6, after reciting that questions had arisen, whether the former act gave any new jurisdiction except as to persons that worked in husbandry, it was enacted, 'that the provisions should extend to any labourers, weavers, spinsters, and workmen whatsoever, either working by the day, week, month, or year, or taking any work to be done in great or otherwise.' That explains still further the various descriptions of persons whose wages might be fixed by the magistrates at the time when the 20 Geo. II. passed; and for the work to be done by the several persons mentioned, there would be no difficulty in fixing a rate of payment. In *Lowther v. Lord Radnor*, the work done was digging, the workman was clearly a labourer, and within the statute. In the present case, there was no work or labour done by *Richards*; his was not an employment for which it could be expected that magistrates could fix the proper remuneration. For these reasons, I think that the defendant went beyond his jurisdiction in making the order in question, and that the rule for a new trial must be discharged. It appears to me that there is weight also in the argument derived from the second section of the 20 Geo. II. c. 19; for this was not a case in which it could be intended that the magistrate should interfere in the manner pointed out by the statute."

Who the employer.

The employer is the person on whose farm the employment is, and not the bailiff, though the contract of hiring may have been made personally with the bailiff. (*R. v. Hoseason*, 14 East, 605.) The defendant, a magistrate, having heard a complaint referred to him in his judicial character by the bailiff of his own farm against one *G. Battersby*, a labourer in husbandry, who had been employed upon the farm by the bailiff, and was charged by him for misconduct in his business and refusal to perform his work, had sentenced *Battersby* to be committed to the house of correction, there "to be corrected, and kept to hard labour for one calendar month," whereupon a criminal information was moved for against the defendant, grounded upon special circumstances of alleged misconduct, as well in respect of the general complexion of the case, as having been guilty of particular oppression in giving that judgment. In the course of the discussion, a question arose, whether, if the defendant committed *Battersby* to the house of correction at all, he was not bound to sentence him also to be there corrected, by which was understood to be corporally corrected by whipping, as had, in fact, been done. [See the 20 Geo. II. c. 19, s. 2, and the 6 Geo. III. c. 25, for the better regulating apprentices and persons working under contract.] The court, upon consideration of the two statutes, were of opinion, that if the commitment in question (which was for one calendar month) were intended by the magistrate to be made under the 20 Geo. II., the correction thereby directed (by which they understood corporal punishment by whipping, and which they considered the sentence in question to import by the commitment to the house of correction, there to be corrected) was a necessary part of the judgment. But that, under the latter statute, which enabled the justice to commit the offender to the house of correction for any time not exceeding three months, nor less than one month, bodily correction was no part of the sentence; and they thought that the punishment inflicted by the two acts could not be blended together, as they appeared to be by the precedent in *Burn's Justice*, which they said was incorrect in that respect. But though the court thought that the sentence pronounced by the defendant in this case was legal in the form of it under the 20 Geo. II., yet Lord *Ellenborough*, C. J., in delivering their opinion upon that point, strongly expressed his disapprobation of the conduct of the defendant for sitting in judgment as a

magistrate upon the imputed misconduct of his own labourer, of which he himself was to be considered as the complainant, though in form the complaint was preferred by his bailiff. It was impossible, he observed, to consider the defendant's bailiff as the *employer* of the labourer upon the defendant's own farm, with the sense of that word in the act, though the contract of hiring was made personally by the bailiff; and that it was a most abusive interpretation of the law for a man to erect himself as a criminal judge over the servants on his own farm for an offence against himself. However, as the defendant appeared, from the circumstances of the whole case, to have acted in this respect from an error of judgment, rather than from any bad motive; and in the mode of punishment adopted by him, which had been urged in aggravation, as evincing a vindictive motive, was probably misled by the erroneous precedent in *Burn's Justice*, which appeared to leave him no discretion in ordering corporal punishment, the court finally discharged the rule upon the defendant's payment of all the costs of the application.

Upon comparing the two statutes, viz. 20 Geo. II. c. 19, and 6 Geo. III. c. 25, there appears to be a distinction as to the applicants. In the former act, it is to be on application *by any master, mistress, or employer*; by the latter act, the complaint is to be made by "*the person with whom the labourer shall have contracted, or by his steward or agent*:" and perhaps the punishment which may be legally affixed, may depend upon the station which the applicant may hold: and it also seems that the words *guilty of any misdemeanor*, in the 6 Geo. III. c. 25, are much more general than the words "*any misdemeanor in his service*," in the 20 Geo. II. c. 19.

In the case of *R. v. Heywood and another*, 1 M. & Sel. 624, it was determined that the sect. 5 of the 13 Geo. I. c. 23, for settling "disputes between clothiers or makers of woollen goods, and weavers, or persons employed in such manufactures," repealed, *ante*, 525, does not relate to demands against clothiers by the owner of a scribbling and carding-mill, for work done by him for the clothiers, in teasing, scribbling, carding, and stubbing the wool at his mill: therefore, the court refused a *mandamus* to two justices to hear and examine such demands. *Ld. Ellenborough*, C. J., said, "the penal provisions of this statute show that it is not applicable to the adjustment of debts between parties of equal rank in trade. 'Wages,' is the emphatical word denoting the character of the person who is authorized to apply, and all the words seem to express the relation between master and servant." This view of the statute is confirmed by reference to other statutes on the same subject, especially the 14 Geo. III. c. 25, s. 1, 2, *ante*, 513.

A commitment in execution by a magistrate (on the 6 Geo. III. c. 25, or any other act) must state that the party has been convicted: setting forth that he was charged on oath with the offence, is not sufficient. (*R. v. Cooper*, 6 T. R. 509; and see *Massey v. Johnson*, 12 East, 78; *R. v. Justices of Staffordshire*, 12 East, 575.) In the case of *R. v. Rhodes*, 4 T. Rep. 220, it was objected that the warrant of commitment did not include a conviction, but only stated that the offender was charged before the justice with being a rogue and vagabond; and it did not proceed, as it ought to have done, to adjudge the defendant to be guilty of the offence charged; and it was held bad; see also "*Commitment in Execution*," Vol. I.

No appeal lies to the sessions against a record of conviction and commitment in execution, under the 6 Geo. III. c. 25, *ante*, 533, 534, for three months, of a collier for absenting himself from his master's service. (*R. v. the Justices of Staffordshire*, 12 East, 572.) *Lord Ellenborough*, C. J., there said, "It is not for us to say whether it may be convenient and proper to provide a remedy by appeal for a party grieved by a commitment in execution under this act; we can only declare what the legislature have said in this case: and when by excepting an order of commitment out of the appeal clause, they have said that there shall be no appeal against such an order, and when the commitment must for this purpose be taken to be one and the same thing with the conviction, we have no discretion left to exercise upon

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putes, &c.

Commitment.

Appeal against
commitment.

17. *Shoemakers' Disputes, &c.*

Order not disputable.
Replevin.

Magistrates no power to commit for nonpayment of wages.

the subject, and it does not become us to scan the wisdom of the provision which the legislature have enacted."

Where a magistrate, in his adjudication on this act, avers a complaint made on oath, and an examination on oath, it is not competent, *in replevin* for taking the plaintiff's goods, for the plaintiff to plead, in bar of a cognizance made under a warrant of distress and sale founded on that adjudication, that the servant did not duly make oath before the magistrate that the sum claimed was justly due to him for wages. Nor can he plead that the sum claimed was not due. (*Wilson v. Weller*, 1 B. & B. 57; 3 Moore, 294; 8 Taunt. 521, S. C.) And, in the same case, *Richardson, J.*, said, that where a magistrate has competent jurisdiction, and adjudges, and, on refusal to pay, issues a warrant of distress and sale, the goods taken under it are not replevisable. See further as to Replevin lying, Vol. I., title "*Distress under Justice's Warrant*."

Magistrates have no power under the 5 Geo. IV. c. 18, to imprison a master for nonpayment of his servant's wages, in case of there being no sufficient distress. (*Wiles v. Cooper*, 1 H. & W. 560.) See "*Distress under Justice's Warrant*," Vol. I.

XVI. *Tailors and Workmen within the Bills of Mortality.*

Repeal of acts.

The 5 Geo. IV. c. 95, s. 1, repeals the 8 Geo. III. c. 17, regulating the wages and working-hours of tailors; and also the 7 Geo. I. st. 1. c. 13, excepting so much thereof as relates to the recovery of wages, or to journey-men tailors, or servants departing from their service, or refusing to enter into work or employment, as therein mentioned.

Leaving work unfinished.

By 7 Geo. I. st. 1, c. 13, s. 6, "if any person actually retained or employed as a journeyman tailor, or servant, in the art or mystery of a tailor, as aforesaid, within the limits aforesaid, shall at any time or times after the first day of May, 1721, depart from his service before the end of the term or time for which he is or shall be hired or retained, or until the work for which he was hired or retained shall be finished, or, not being retained or employed, shall refuse to enter into work or employment (after request made for that purpose by any master tailor, for the wages and hours limited, or to be limited and appointed as aforesaid), unless it be for some reasonable or sufficient cause, to be allowed by two justices of the peace within the limits aforesaid; then and in every such case, every person so offending, being thereof lawfully convicted as aforesaid, shall be sent to the house of correction, there to be kept to hard labour for any term not exceeding two months."

Appeal(a).

Sect. 9. "It shall and may be lawful for any person aggrieved by any order or orders to be made by any two or more justices of the peace, as aforesaid, to appeal to the justices of the peace assembled at the next general quarter-sessions to be holden for the city, division, parish, or place where such order shall be made, giving six days' notice of such appeal; and such justices in such general quarter-sessions, shall finally hear and determine the matter, and shall have power to award reasonable costs to either party, as to them shall seem just."

XVII. *Disputes between Shoemakers and Workmen within the Bills of Mortality.*

Purloining shoes or materials.

By 9 Geo. I. c. 27, s. 1, "if any journeyman shoemaker, or other person, hired or employed as such, within the bills of mortality, shall after the twenty-fourth day of June, in the year of our Lord, 1723, be accused by the master so hiring or employing such journeyman or other person

(a) See in general Vol. I., title "*Appeal*."

aforesaid, of having, after the said twenty-fourth day of June, 1723, 17. *Shoe-* fraudulently purloined, embezzled, sold, pawned, or exchanged, any *maker's Dis-* boots, shoes, slippers, cut leather, lace, silk, lasts, or other materials, for *putes, &c.* making boots, shoes, slippers, or other wares, not being the proper goods of the person so accused, it shall and may be lawful to and for any one or more of his majesty's justices of the peace for the county, city, town, or place, where such offence shall be committed, or where the party so accused shall reside or inhabit, and such justice or justices is and are hereby respectively authorized and required, upon complaint or information upon oath of such offence (which oath or oaths such justice or justices is and are hereby empowered to administer) to summon the party or parties complained of, or to issue his or their warrant or warrants to apprehend and bring before him or them the person or persons so accused, complained of, or suspected, and upon his or their appearance, or default to appear, to proceed to examine the matter of fact with which they are charged, and upon due proof thereof made, either by confession of the party or parties so accused, or upon the oath or oaths of one or more credible person or persons, to determine the same, and to convict the offender or offenders, and, upon such conviction, immediately to award to the party or parties injured, reasonable recompense and satisfaction for the damage, loss, and charges by them sustained, and upon the neglecting or refusing immediately to pay the same, to levy the same by warrant or warrants, under the hand and seal, or hands and seals, of such justice or justices, upon the goods and chattels of the offender or offenders, rendering the overplus to the owner or owners thereof, and for want of sufficient distress, to cause the offender or offenders to be whipped in the parish or place where the offence shall be committed; and in case of conviction for any second or other such offence, to commit the offender or offenders to the house of correction, there to remain and to be kept to hard labour, for any time not exceeding one month, nor less than fourteen days, as to such justice or justices shall seem meet and reasonable."

9 Geo. 1, c. 27.

Sect. 2. "All and every person and persons who shall from and after the said twenty-fourth day of June, 1723, buy or receive, or take in pawn, of or from any journeyman shoemaker, or other person hired or employed as such, in manner as aforesaid, or from any other person whatsoever, any boots, shoes, slippers, cut leather, lace, silks, lasts, or other materials, for making boots, shoes, slippers, or other wares, not being the proper goods of the person or persons selling or pawning, or offering to sell or pawn the same, shall, for every such offence, (being lawfully convicted thereof, in manner as aforesaid,) make such reasonable recompense, within two days after the matter of fact shall be determined, as, upon hearing of the same, shall be awarded, in manner as aforesaid, or else be subject to such distress, and, for want of sufficient distress, to be liable to the like punishment as is hereby inflicted, or intended to be inflicted, on such journeyman, journeymen, or other person or persons, so purloining, embezzling, selling, pawning, or exchanging such goods or materials as aforesaid."

Receivers.

Sect. 3. "It shall and may be lawful for any two or more of his majesty's justices of the peace, dwelling within the limits aforesaid, upon any complaint or information upon oath, to issue their warrant or warrants for searching, in the day-time, the house, warehouse, or other place of such person or persons, as such justices shall have just cause to suspect to have received, bought, or taken to pawn, any such goods so fraudulently embezzled or purloined as aforesaid, and for that purpose, upon refusal, to break open any such house, warehouse, or other place, if there shall be occasion; and that every person who shall oppose and hinder such search, shall, for every such offence, forfeit the sum of 10*l.* to any person or persons who shall inform and sue for the same, within two calendar months after the offence committed, in any of his majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoin, privilege,

Search warrants, &c. (a).

(a) See, *post*, title "*Warrant.*"

19. *Arbitration between Masters and Workmen.*

9 Geo. 1, c. 27.

Restitution of goods, &c.

* *Sic.*

Leaving work unfinished.

Appeal (a).

* *Sic.*

protection, order of restraint, wager of law, or more than one imparlance, shall be granted or allowed; and if it shall appear by the oath of one or more credible witness or witnesses, or upon search of such house, warehouse, or other place, it shall be found such person or persons hath or have in his, her, or their custody or possession, any such goods so fraudulently sold, exchanged, or pawned, as aforesaid, such justices shall cause the same to be restored to the owner or owners, proprietor or proprietors thereof, and oblige the party or parties so offending, to make recompense and satisfaction to such owner, for the loss and damage in detaining such goods, and charges in getting the same, and, upon refusal of the party or parties so to do, to * be subject to the like punishment as shall be inflicted, or hereby provided to be inflicted, on such journeyman or agent, or other person so fraudulently embezzling, purloining, selling, exchanging, or pawning, any such goods as aforesaid."

Sect. 4. "All and every person and persons who shall at any time hereafter be retained or employed in the making up of any boots, shoes, and slippers, or other wares, for any one master, and shall neglect the performance thereof, by suffering himself to be retained or employed by any other master, or other person whatsoever, before he or they shall have completed the same, and finished the said work first delivered to him or them, then in every such case, every person so offending, being thereof lawfully convicted by the oath or oaths of one or more credible witness or witnesses, before one or more justice or justices of the peace where the offences shall be committed, the person or persons so convicted shall be sent to the house of correction, there to be kept to hard labour for any time not exceeding one month."

Sect. 5. "It shall and may be lawful for any person aggrieved by any order or orders to be made by any such justice or justices, to appeal to the next quarter-sessions of the peace, to be holden for the county, city, town or place, where such order shall be made, giving eight days' notice of such appeal; and such justices, at their quarter-sessions, shall hear the master *, and shall have power to make satisfaction to either party, as to them shall seem just, whose determination therein shall be final."

XVIII. Disputes between Bargemen, Watermen, &c., and Owners, &c., of Ships, &c., on the Thames.

[See the 3 Wil. IV. c. 19, s. 49, 50, *ante*, 242, 243.]

XIX. Arbitration between Masters and Workmen.

By 5 Geo. IV. c. 96, s. 1 (b), after reciting that it is expedient that the laws relative to the arbitration of disputes between masters and workmen should be consolidated and amended, and one general law made applicable to every description of trade and manufacture; it is enacted, that the 39 & 40 Geo. III. c. 90, c. 106, 41 Geo. III. United Kingdom, c. 38, and 44 Geo. III. c. 87, shall be and are repealed, save and except in as far as the same may have repealed any prior acts or enactments.

Sect. 2. "The following subjects of dispute arising between masters and workmen, or between workmen and those employed by them, in any trade or manufacture in any part of the United Kingdom of Great Britain and Ireland, may be settled and adjusted in manner hereafter mentioned; that is to say, disagreements respecting the price to be paid for work done, or in

Enumeration of the causes of dispute that may be referred.

(a) See Vol. I., title "Appeal."

(b) Intituled "An Act to consolidate and amend the Laws relative to the Arbitration of Disputes between Masters and Workmen," dated 21st June, 1824.

the course of being done, whether such disputes shall happen or arise between them respecting the payment of wages as agreed upon, or the hours of work as agreed upon, or any injury or damage done, or alleged to have been done to the work, or respecting any delay, or supposed delay, in finishing the work, or the not finishing the work in a good and workmanlike manner, or according to any contract, or to bad materials; cases where the workmen are to be employed to work any new pattern which shall require them to purchase any new implements of manufacture, or to make any alteration upon the old implements for the working thereof, and the masters and workmen cannot agree upon the compensation to be made to such workmen for or in respect thereof; disputes respecting the length, breadth, or quality of pieces of goods, or in the case of cotton manufacture, the yarn thereof, or the quantity and quality of the wool thereof; disputes respecting the wages or compensation to be paid for pieces of goods that are made of any great or extraordinary length; disputes in the cotton manufacture respecting the manufacture of cravats, shawls, policat, romal, and other handkerchiefs, and the number to be contained in one piece of such handkerchiefs; disputes arising out of, for, or touching the particular trade or manufacture, or contracts relative thereto, which cannot be otherwise mutually adjusted and settled; disputes between masters and persons engaged in sizing or ornamenting goods; but nothing in this act contained shall authorize any justice or justices acting as hereafter mentioned, to establish a rate of wages or price of labour or workmanship, at which the workman shall in future be paid, unless with the mutual consent of both master and workman: provided always, that all complaints by any workman, as to bad materials, shall be made within three weeks of his receiving the same; and all complaints arising from any other cause shall be made within six days after such cause of complaint shall arise."

Sect. 3. "Whenever such subjects of dispute shall arise as aforesaid, it shall be lawful (a) for the master and workman, or either of them, to demand and have an arbitration or reference thereof in manner following; that is to say, where the party complaining and the party complained of shall come before, or agree by any writing under their hands to abide by the determination of any justice of the peace or magistrate of any county, riding, division, stewartry, barony, city, borough, town, or place, within which the parties reside, it shall and may be lawful for such justice of the peace or magistrate to hear and finally determine, in a summary manner, the matter in dispute between such parties; but if such parties shall not come before or so agree to abide by the determination of such justice of the peace or magistrate, then it shall be lawful for any such justice or magistrate, and such justice of the peace or magistrate is hereby required, on complaint made before him, and proof by the examination of the party making such complaint, that application has been made to the person or persons against whom such cause of complaint has arisen, or his, her, or their agent or agents, if such dispute has arisen with such agent or agents, to settle such dispute, and that the same has not been settled upon such complaint being made, or where the dispute relates to a bad warp, that such cause of complaint has not been done away with within forty-eight hours after such application, to summon before him such person or persons, or agent or agents, on some day, not exceeding three days, exclusive of Sunday, after the making such complaint, giving notice to the person making such complaint of the time and place appointed in such summons for the attendance of such person or persons, agent or agents, as aforesaid; and if at such time and place the person or persons so summoned shall not appear by himself, herself, or themselves, or send some person on his, her, or their behalf, to settle such dispute, or appearing, shall not do away such cause of complaint, then and in such case it shall be lawful for such justice, and he is hereby

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5 Geo. 4, c. 96.

Limitation for workmen to lodge their complaints.

Appointment of referees.

(a) The clause is perhaps imperative, and precludes the party from suing if an action be demanded. See *Crisp v. Bun-*

bury, 8 Bingham, 394, 1 M. & Scott, 646, ante, "*Friendly Societies*."

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5 Geo. 4, c. 96.

Justice to name them in cases above specified.

Master to choose one, and workmen the other.

Regulations for appointment of other referees where those appointed refuse or delay to accept the reference, or accepting do not act therein.

required, at the request of either of such parties, to nominate arbitrators or referees for settling the matters in dispute; and such justice shall then and there, at such meeting, propose not less than four, nor more than six persons, one half of whom shall be master manufacturers, or agents or foremen of some master manufacturer, and the other half of whom shall be workmen in such manufacture; such respective persons residing in or near to the place where such disputes shall have arisen; out of which master manufacturers, agents, or foremen, the master engaged in such dispute, or his agent, shall choose one, and out of which workmen so proposed, the workman or his agent shall choose another, who shall have full power to hear and finally determine such dispute."

Sect. 4. "In case any or either of the persons so proposed by any such justice shall refuse or delay to accept such arbitration, or accepting shall not act therein, within two days after such nomination, the justice shall proceed to name another or other persons of the descriptions aforesaid, in the room of the person so refusing as aforesaid, to be arbitrator or arbitrators in the place of any such arbitrator or arbitrators so refusing or delaying to accept, or who shall not act; and in every case of a second nomination the arbitrators shall meet within twenty-four hours after the application for the same, and at the same place at which the meeting of the referees first named was appointed, or at some other convenient place, as the justice may appoint; and the expense of every such application for the appointment of a second referee shall be borne and defrayed by the party through whose default, or the default of whose referee, such application is rendered necessary; and the justice making such second appointment shall certify the same in the form for that purpose hereafter set forth, or in some other form to the like effect; and in every case where a second arbitrator shall be appointed as aforesaid, and such second arbitrator shall not attend at the same time and place appointed for settling the matters in dispute, it shall be lawful for the other arbitrator, at such time and place, to proceed by himself to the hearing and determining of the same matters in dispute; and in such case the award of such sole arbitrator shall be final and conclusive as to all matters in dispute submitted to such arbitrator, without being subject to review, appeal, or suspension."

Meeting of referees, notice of which shall be given.

Sect. 5. "The arbitrators or referees being so nominated as aforesaid, the said justice shall thereupon appoint a place of meeting according to the directions of this act, and also a day for the meeting, notice of which nomination, and of the day of meeting, shall thereupon be given by such justice to the persons so nominated arbitrators or referees, and to any party to any such dispute, who may not have attended the meeting before such justice as aforesaid; which appointment shall be by such justice certified in the form following, or in some other form to the like effect; that is to say—

Form of a justice's order, certifying nomination of referees.

"I, A. B., one of the justices of the peace acting for , do hereby certify, that C. D. and E. F. are duly nominated referees to settle the matters in difference between G. H., of , master manufacturer [or, agent or foreman, as the case may be], and I. K., of , weaver [or otherwise, as the case may be], pursuant to an act passed in the fifth year of the reign of his [present] majesty; and that the said referees are hereby directed to meet at , on , the day of , at of the clock in the forenoon [or, afternoon, as the case may be]. "A. B."

"I, A. B., one of the justices of the peace acting for , do hereby certify, that the above-named C. D. and E. F., [or, one of them, as the case may be], having refused or delayed to act in the above-mentioned reference, L. M. and N. O. [or, L. M. only, as the case may be], are [or is] by me duly nominated referees [or, referee], together with the above-named C. D. [or, E. F.], to settle the matters in difference between the above-named G. H. and I. K.; and the said C. D. [or, E. F.], together with the said L. M. [or, the said L. M. or N. O., as the case may be,] are directed to meet at the place above-mentioned on , the day of , in the year of our lord , at of the clock in the forenoon [or, afternoon, as the case may be].

"A. B."

And the persons so appointed as aforesaid shall hear and examine the parties and their witnesses, and determine such dispute within two days after such nomination, exclusive of *Sundays*; and the determination of such arbitrators shall be final and conclusive" (a).

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Sect. 6. "In all cases where complaints are made respecting bad warps or utensils by workmen, the place of meeting of the referees shall be at or as near as may be to the place where the work shall be carrying on; and in all other cases at or as near as may be to the place or places where the work has been given out."

5 Geo. 4, c. 96.

Place for the meeting of referees.

Sect. 7. "If any person so complaining as aforesaid shall not attend, or send some person on his or her behalf, at the time and place appointed by such justice of the peace, for the purpose of naming such persons as aforesaid, such person shall not in such case be entitled to the benefit of this act; and if any person against whom any such complaint shall have been made as aforesaid shall not attend, or send some person on his or her behalf, the justice of the peace shall thereupon nominate a person for him out of such persons so proposed as aforesaid."

Attendance of parties.

Sect. 8. "The said arbitrators and referees shall meet at the time and place fixed by the justice of the peace by whom such referees were appointed, and shall, by inspection of the work in regard to which the dispute may have arisen, by hearing and examining the parties, or any other persons on their behalf, or that attend to give evidence respecting the matters in dispute, upon oath, (which (b) the said arbitrators and referees are hereby empowered to administer), or otherwise, or by otherwise ascertaining the true state of the case, in such manner as to such arbitrators and referees shall appear necessary, proceed to determine the matter or matters in dispute referred to them; and the award to be made by such arbitrators and referees shall be final and conclusive between the parties, without being subject to review or challenge by any court or authority whatsoever."

Mode of investigation of complaint by the arbitrators.

Sect. 9. "It shall be lawful for any arbitrator or arbitrators, referee or referees, and he and they are hereby authorized and required, at the request in writing of any of the parties, to issue his or their summons to any witness or witnesses to appear and give evidence before such arbitrator or arbitrators, referee or referees, at the time and place appointed for hearing and determining any such dispute, and which time and place shall be specified in such summons; and if any person so summoned to appear as a witness as aforesaid, shall not appear before such arbitrator or arbitrators, referee or referees, at the time and place specified in such summons, or offer some reasonable excuse for the default, or appearing according to such summons, shall not submit to be examined as a witness, and give his evidence before such arbitrator or arbitrators, referee or referees, touching the matter of such dispute, then and in every such case it shall be lawful for any one or more of his majesty's justices of the peace acting in and for the county, stewartry, riding, division, barony, city, burgh, town, or place where such dispute shall have arisen, and they are hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such justice or justices, of the due service of such summons on every such person, by delivering the same to him, or by leaving the same twenty-four hours before the time appointed for such person to appear before such arbitrator or arbitrators, referee or referees, at the usual place of abode of such person), by warrant under the hands of any such justice or justices to commit (c) [see, also, s. 27], any such person so making default in appearing, or appearing and refusing to give evidence, to some prison within the jurisdiction of any such justice or justices, there to remain, without bail or mainprize, for any time not exceeding two calendar months, nor less than seven days, or until such person shall submit himself to be examined, and give his evidence before such arbitrator or arbitrators, referee or referees, as

Arrest and commitment of refractory witnesses.

(a) Form (No. 23), *post*.

(b) Form (No. 30), *post*.

(c) Form (No. 31), *post*.

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5 Geo. 4, c. 96.

Proviso.

Adjournment of complaint from referees to a justice.

Determination of justice final.

Proceeding where one referee refuses to go before justice.

Disputes may be adjusted by any other mode of arbitration upon which the parties may agree.

Partners, agents, and servants, to be considered principals.

Master not resident may depute another person.

Provision in case master becomes bankrupt after proceedings commenced.

aforesaid: provided always, that in case such dispute shall be heard and determined before such offender shall submit to be examined, and give evidence as aforesaid, then and in every such case he, she, or they shall be imprisoned the full term of such commitment."

Sect. 10. "In case such arbitrators and referees so appointed cannot agree upon and decide such matter or matters in dispute so referred as aforesaid, or shall not make and sign their award within three days after the date of the order of such justice, certifying their appointment, then the said arbitrators and referees shall, without delay, go before the justice by whom they were appointed, and in case of his absence or indisposition, before any other of his majesty's justices of the peace acting in and for the county, stewardry, riding, division, barony, city, burgh, town, liberty, or place, and residing nearest to the place where the meeting to settle such dispute shall have taken place, and shall state to such justice or justices who may be present the points in difference between them the said arbitrators and referees, which points in difference the said justice or justices shall, and is and are hereby authorized and required to hear and determine upon the statement of the arbitrators and referees; and the said justice or justices is and are hereby directed and required to settle and determine the matter in dispute with all possible despatch, and in all cases, within the space of two days after the expiration of the time hereby allowed to the arbitrators and referees, to make and sign their award; and the determination of such justice or justices shall be final and conclusive between the parties so differing as aforesaid, without being subject to review or challenge by any court whatsoever."

Sect. 11. "If either arbitrator or referee shall neglect or refuse to go before such justice of the peace in the manner herein directed, it shall and may be lawful for such justice, after summoning the arbitrators to attend him, to determine the matter or matters in dispute upon the statement and representation of either of the arbitrators who shall come before him."

Sect. 13. "As well in all such cases of dispute as aforesaid as in all other cases, if the parties mutually agree that the matter in dispute shall be arbitrated and determined in a different mode to the one hereby prescribed, such agreement shall be valid, and the award and determination thereon final and conclusive between the parties, and the same proceedings of distress, sale, and imprisonment, as hereafter mentioned, shall be had towards enforcing such award, (by application to any justice of the peace of the county, stewardry, riding, division, barony, city, town, burgh, or place within which the parties shall reside,) as are by this act prescribed for enforcing awards made under and by virtue of its provisions."

Sect. 14. "Where any work shall have been delivered to any workman by the agent or servant of any master or masters, to be when finished delivered to such agent or servant; and also where two or more persons shall carry on the business of such manufacture as partners, in every such case respectively the like proceedings shall and may be had and made against such agent, servant, or any partner, and shall be as effectual as if the same had been had and made against the principal, or all the partners; and all the said persons respectively shall obey the award made thereupon, and all such order or orders as shall be made by the said justice or justices in or respecting the matters in dispute, and shall be subject to the same proceedings and consequences for refusing or delaying to abide by or perform the same, as if the proceedings had been had against the principal, or against all the partners."

Sect. 15. "It shall be lawful in all cases for any master or workman, by writing under his hand, to authorize any person to act for him in submitting to arbitration and attending arbitrators or justices touching the matter of any arbitration."

Sect. 16. "In all cases where any proceedings may be had against a master or masters under this act, or where such proceedings shall have been commenced, and the master or masters shall become or be bankrupt, or any assignment of his or their estate or effects shall have been made under the

said bankruptcy, or otherwise by deed or in law, the factor or trustee upon, or the assignee or assignees of such estate or effects, shall be liable to the proceedings authorized by this act against the master or masters, as fully as the master or masters was or were before the bankruptcy or assignment; and such proceedings may be commenced or carried on against such factor, trustee, assignee or assignees, who shall fulfil and abide by the award made thereupon, and all such order or orders as shall be made by the said justice or justices in or respecting the matters in dispute, and shall be subject to the same proceedings and consequences for wilfully refusing or delaying to abide by or perform the same, as if the proceedings had been had against the master or masters before his or their bankruptcy, or the assignment of his or their estate or effects; provided that all sums of money to be paid in pursuance of such award or orders shall be recoverable only out of the estate or effects of such master or masters, and not out of the proper money of such factor, trustee, assignee, or assignees."

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5 Geo. 4, c. 96.

Sect. 17. "Where any married woman, or infant under the age of twenty-one years, shall have cause of complaint in any of the cases provided for by this act, against any master or masters, his or their agent or servant, or factor or trustee, or assignee or assignees as aforesaid, such complaint may be lodged, and all further proceedings thereupon had, by and in the name of the husband of such married woman, and of the father, or, if dead, of the mother, or if on the death of both parents, of any of the kindred of any such infant, or of the surety or sureties in any indenture of apprenticeship of any such infant, being an apprentice, or of any person nominated by such infant, if he or she shall not have parent, kindred, or surety; and all such proceedings shall be as effectual, valid, and binding, as if such married woman was sole, and such infants were of full age, and pursued by themselves the remedies provided by this act."

Where complainant a married woman or infant.

Sect. 18. "With every piece of work given out by the manufacturer to a workman to be done, there shall (if both parties are agreed) be delivered a note or ticket, in such form as the said parties shall mutually agree upon; and which said note or ticket, in the event of dispute between the manufacturer and workman, shall be evidence of all matters and things mentioned therein or respecting the same."

Tickets of particulars to be given out with work.

Sect. 19. "A duplicate of every such note or ticket shall be made and kept by the master or agent delivering the same, which duplicate shall be evidence of all the matters and things therein contained, in case the workman shall not produce to the arbitrators, or the said justice, as the case may be, the said note or ticket so delivered to him with the said work."

Duplicates of such tickets.

Sect. 20. "It shall not be allowable to any manufacturer, who shall have received into his possession any article without objection made within twenty-four hours by himself, or his clerk or foreman, afterwards to make any complaint on account of work so received."

Manufacturers receiving articles not to complain afterwards.

Sect. 21. "If the parties by and between whom the said reference shall take place as aforesaid, shall think it expedient, or be desirous to extend the time hereby limited for the making the award or umpirage, it shall and may be lawful for them to extend the same accordingly by indorsement, according to the form (a) in the schedule hereunto annexed, on the back of the order of the justice of peace, certifying the appointment of the referees, to be signed by both of them in the presence of one or more credible witness or witnesses."

Extension of time limited for making award.

Sect. 22. "The award or umpirage to be made upon any reference demanded under this act, shall and may be drawn up and written at the foot or upon the back of the said order, certifying the appointment of the referees, according to the form (b) in the schedule hereunto annexed."

Form of award in schedule annexed.

Sect. 23. "Upon fulfilment of the award or umpirage, the same shall be acknowledged by the party in whose behalf the same was made, by an acknowledgment at the foot of the said award, in the form (c) of the sche-

On award being fulfilled, fulfilment to be acknowledged.

(a) Form (No. 28), *post*.

(b) Form (No. 27), *post*.

(c) Form (No. 29), *post*.

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5 Geo. 4, c. 96.

Performance of award may be enforced by distress, and failing that the party refusing shall be imprisoned.

In certain cases, the warrant of distress shall be withheld, and the defaulter committed to prison.

On payment of sum awarded, with costs, party discharged.

Form of warrant of commitment in form in schedule (e).

No appeal or *certiorari* (f).

Want of form (g).

Fees for proceedings under this act.

dule hereunto annexed, which, with the award, shall thereupon be delivered to the party fulfilling the same."

Sect. 24. "If any party shall refuse or delay to fulfil an award under this act, for the space or term of two days after the same shall have been reduced into writing, it shall be lawful for any such justice as aforesaid, on application of the party aggrieved, and he is hereby required, by warrant under his hand, according to the form (a) of the schedule hereunto annexed, or in some other form to the like effect, to cause the sum and sums of money directed to be paid by any such award to be levied by distress and sale of any goods and chattels of the person or persons liable to pay the same, together with all costs and charges attending such distress and sale, such sale to take place within such time, not exceeding five days, as the said justice shall think proper; and the overplus, if any, to arise by such sale, to be rendered to the owners of the goods and chattels distrained; and in case it shall appear by any return to such warrant, that no sufficient distress can be readily had, which return may be in the form (b) contained in the schedule hereunto annexed, or in some other form to the like effect, it shall be lawful for any such justice as aforesaid, and he is hereby required, by warrant under his hand according to the form (c) of the schedule hereunto annexed, or in some other form to the like effect, to commit the person or persons so liable as aforesaid to the common goal, or some house of correction within his or their jurisdiction, there to remain without bail for any time not exceeding three months."

Sect. 25. "And whereas cases may occur where the recovery of such sum or sums of money by distress and sale of the goods and chattels of the defaulter may appear to the justice or justices of the peace by whom the warrant is to be issued to be attended with consequences ruinous, or in an especial manner injurious, to the defaulter and his family: to prevent which consequences, be it further enacted, that the said justice or justices, in all such cases, shall withhold such warrant, and commit the defaulter to the common gaol, or some house of correction within his or their jurisdiction, there to remain without bail for any time not exceeding three months; such commitment to be in the form (d) or to the effect of the form in the schedule to this act annexed."

Sect. 26. "Where any person shall be committed to prison for refusing or delaying to fulfil an award as aforesaid, and such person shall, at any time during the period of his or her imprisonment, pay to the governor or keeper of the prison the full amount of the sum awarded, with all reasonable expenses incurred through such refusal or delay, it shall be lawful for such governor or keeper of such prison, and he is hereby required, forthwith to discharge such person from his custody."

Sect. 27. "The justice or justices by whom any person or persons shall be committed to prison for not appearing as a witness, or not submitting to be examined, shall cause the warrant or order for such commitment to be drawn up in the form (e) or to the effect set forth in the schedule to this act."

Sect. 28. "No appeal by *certiorari* shall lie against any proceedings under this act."

Sect. 29. "No proceedings under this act shall be invalid for want of form."

Sect. 30. "The following and no higher fees shall be allowed to be taken for any proceeding under this act; that is to say,

"To the clerk of the justice or justices:

"For each summons, 2d.; for every oath or affirmation, 3d.; for drawing and entering the order, 4d.; for every warrant, 6d.

(a) Form (No. 32), *post*.

(b) Form (No. 33), *post*.

(c) Form (No. 34), *post*.

(d) Form (No. 35), *post*.

(e) Form (No. 35), *post*.

(f) See Vol. I., title "*Appeal*," "*Certiorari*."

(g) See as to clauses of this kind, Vol. I., title "*Conviction*."

“ To the constable or other peace-officer :

“ For service of summons or order, 4*d.* ; for executing warrant of distress and sale of goods, 1*s.* ; for custody of goods distrained, *per diem*, 3*d.* ; for every mile he shall travel, 3*d.* ; for every caption, 6*d.*

“ And a table of fees, signed by the clerk to such justice or justices shall be hung up in every place where any general or quarter session, or petty or other sessions of the peace, shall be held.”

Sect. 31. “ All costs, time, and expenses attending the application to justices to be made under this act, and of the arbitration pursuant thereon, shall be settled by the arbitrators or arbitrator by whom such dispute shall be settled ; and where the same shall be determined by any justice of the peace, pursuant to this act, then the costs, time, and expenses aforesaid shall be settled by such justice ; and where the arbitrators appointed as aforesaid cannot agree as to the costs, time, and expenses to be allowed, the same shall be settled by the justice or justices of the peace by whom the said arbitrators were named ; and in case of his absence or indisposition, by any justice of the peace for the same county, stewartry, riding, division, barony, city, burgh, liberty, town, or place nearest to the place at which the arbitrators met to settle the dispute : provided always, that no master manufacturer, his foreman or agent, shall in any case be allowed for costs, time, or expenses, by the said justice or justices, unless it shall appear to him or them that the proceedings of the workmen were vexatious and oppressive.”

Sect. 32. “ Every agreement, submission, award, ticket, matter, or thing under and by virtue of this act, or relating to any other mode of arbitration as aforesaid, shall and may be drawn up and written upon unstamped paper.”

Sect. 33. “ No action shall be brought against any arbitrator, justice of the peace, constable, headborough, or other officer, or against any other person or persons whomsoever, for any matter or thing whatsoever done or committed under, or by virtue, or in the execution of this act, unless such action shall be brought within six calendar months next after the doing or committing of such matter or thing.”

Sect. 34. “ If any action or suit shall hereafter be commenced or prosecuted against any person or persons for any thing done under, by virtue, or in the execution of this act, such person or persons may plead the general issue, and give this act and the special matter in evidence ; and if the plaintiff shall become nonsuited, or suffer discontinuance, or forbear further prosecution, or if judgment shall be given for the defendant or defendants, such defendant or defendants shall recover his, her, or their full costs, and for which he, she, or they shall have like remedy as in cases where costs by law are given to defendants.”

Sect. 35. “ Nothing in this act contained shall extend, or be construed to extend to repeal, abridge, annul, or make void any of the clauses, provisions, remedies, or powers contained in any law or statute now in force, and not repealed by this act.”

20. *Combinations amongst Masters and Workmen.*

5 Geo. 4, c. 96.

Costs and expenses, how to be settled.

Proceedings exempt from stamp-duty.

Limitation of actions.

General issue.

Costs.

Proviso for acts not hereby repealed.

XX. Combinations amongst Masters or Workmen.

By the 5 Geo. IV. c. 96, s. 1, the statutes 39 & 40 Geo. III. c. 106, and 41 Geo. III. (U. K.) c. 38 (which amended the 39 & 40 Geo. III. c. 106) are repealed, save and except so far as the same may have repealed any prior act or enactment.

By the 6 Geo. IV. c. 129, intituled “ An Act to repeal the Laws relating to the Combination of Workmen, and to make other Provisions in lieu thereof,” [dated 6th July 1835,] reciting that, “ whereas an act was passed in the last session of parliament, intituled ‘ An Act to repeal the Laws relative to the Combination of Workmen, and for other purposes therein mentioned,’ by which act various statutes and parts of statutes, relating to combinations among workmen for fixing the wages of labour, and for regulating and controlling the mode of carrying on any manufacture,

Repeal of acts.

20. *Combinations amongst Masters or Workmen.*

6 Geo. 4, c. 129.

Repealed.

Certain acts shall stand and remain repealed, viz. 33 Edw. 1, st. 1, in part, so far as relates to combination of workmen.

3 Hen. 6, c. 1.

33 Hen. 8, st. 1, c. 9, (L.)

2 & 3 Edw. 6, c. 15.

5 Parl. Jac. 1, (S.)

7 Parl. Jac. 1, (S.)

5 Parl. Mary, (S.)

7 Parl. Jac. 6, (S.)

13 & 14 Car. 2, c. 15, s. 10.

7 Geo. 1, st. 1, c. 13, ss. 4, 6.

12 Geo. 1, c. 34, s. 1, 8.

trade, or business, were repealed, and other provisions were made for protecting the free employment of capital and labour, and for punishing combinations interfering with such freedom, by means of violence, threats, or intimidation; and whereas the provisions of the said act have not been found effectual; and whereas such combinations are injurious to trade and commerce, dangerous to the tranquillity of the country, and especially prejudicial to the interests of all who are concerned in them; and whereas it is expedient to make further provision, as well for the security and personal freedom of individual workmen in the disposal of their skill and labour, as for the security of the property and persons of masters and employers, and for that purpose to repeal the said act, and to enact other provisions and regulations in lieu thereof: it is enacted, "that from and after the passing of this act, the said recited act of the last session of parliament shall be and the same is hereby repealed."

Sect. 2. "From and after the passing of this act, so much of an act made in the thirty-third year of the reign of King Edward I., concerning conspirators who do confeder or bind themselves by oath, covenant, or other alliance, as relates or extends to combinations or conspiracies of workmen or other persons to obtain an advance of or to fix the rate of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or to regulate or controul the mode of carrying on any manufacture, trade, or business, or the management thereof, or to combinations or conspiracies of masters, manufacturers, or other persons, to lower or fix the rate of wages, or to increase or alter the hours or duration of the time of working, or to increase the quantity of work, or to regulate or controul the mode of carrying on any manufacture, trade, or business, or the management thereof, or to oblige workmen to enter into work; and also so much of a statute made in the third year of king Henry the Sixth, as relates to the annual congregations and confederacies made by masons in their general chapters assembled; and also a certain act passed in the parliament of Ireland, in the thirty-third year of king Henry the Eighth, intituled, 'An Act for Servants' Wages;' also a certain act passed in the second and third years of king Edward the Sixth, intituled, 'An Act touching Victuallers and Handicraftsmen;' and also a certain other act passed in the parliament of Scotland, in the fifth parliament of King James the First of Scotland, intituled, 'Of the Fees of Craftsmen, and the Price of their Worke;' also a certain other act passed in the parliament of Scotland, in the fifth parliament of King James the First of Scotland, intituled, 'Of the Fees of Workmen;' also a certain other act passed in the parliament of Scotland, in the fifth parliament of King James the First of Scotland, intituled, 'Of Witches and Masones;' also a certain other act passed in the parliament of Scotland, in the seventh parliament of King James the First of Scotland, intituled, 'The Price of Silk Workmanship;' also a certain other act passed in the parliament of Scotland, in the fifth parliament of Queen Mary of Scotland, intituled, 'The Price of Craftesmenne's Work, of Meate and Drinke in Tavernes;' also a certain other act passed in the parliament of Scotland, in the seventh parliament of King James the Sixth of Scotland, intituled, 'Anent the Setting of Ordour and Price in all Stuiiffe;' also so much of a certain other act passed in the thirteenth and fourteenth years of King Charles the Second, intituled, 'An Act for regulating the Trade of Silk-Throwing,' as provides and enacts, that the corporation of silk-throwers should not, by virtue of that act, nor any thing therein contained, make any orders, ordinances, or by-laws, to set any rates or prices whatsoever upon the throwing of silk, to bind or enforce their members to work at; also a certain other act passed in the seventh year of King George the First, intituled, 'An Act for regulating the Journeymen Tailors within the Weekly Bills of Mortality,' excepting so much thereof as relates to the recovery of wages, or to journeymen tailors or servants departing from their service, or refusing to enter into work or employment, as therein mentioned; also so much of an act passed in the twelfth year of King George the First, intituled, 'An Act to prevent unlawful Combinations of Workmen employed in the Woollen

Manufactures, and for better Payment of their Wages,' as provides that 20. *Combinations amongst Masters or Workmen.*
 contracts, covenants, or agreements, by-laws, ordinances, rules, and orders, made or entered into by or between persons brought up in, or professing, using, or exercising the art and mystery of a woolcomber or weaver, or journeyman woolcomber or journeyman weaver, as therein mentioned, shall be illegal, null, and void, and as punishes woolcombers, weavers, journeymen woolcombers and weavers, and other persons concerned in the woollen manufactures, for keeping up, continuing, acting in, making, entering into, signing, sealing, or being knowingly concerned in, presuming, or attempting to put in execution such agreements, by-laws, ordinances, rules, or orders, as therein mentioned, and as provides that the provisions of the said act of the twelfth of George the First, just recited, shall extend to the persons therein mentioned; also so much of a certain other act passed in the parliament of Ireland, in the third year of King George the Second, intituled, 'An Act to prevent unlawful combinations of Workmen, Artificers, and Labourers, employed in the several Trades and Manufactures of this Kingdom, and for the better Payment of their Wages; as also to prevent Abuses in making of Bricks, and to ascertain their Dimensions,' as declares illegal, null, and void, the contracts, covenants, agreements, by-laws, ordinances, rules, and orders, therein mentioned, and makes it an offence to keep up, continue, act in, make, enter into, sign, seal, or be knowingly concerned therein, and to presume, or to attempt to put the same into execution, as therein mentioned; also so much of a certain other act passed in the parliament of Ireland, in the seventeenth year of King George the Second, intituled, 'An Act for continuing several Statutes now near expiring, and for amending other Statutes, and for other Purposes therein mentioned,' as declares the assemblies therein mentioned to be unlawful assemblies, the houses where they meet common nuisances, and punishes the master and mistress thereof, as likewise those who enter into the contracts, covenants, or articles therein mentioned, or collect or pay money for the support of persons as therein mentioned; also so much of a certain other act passed in the twenty-second year of King George the Second, intituled 'An Act for the more effectual preventing Frauds and Abuses committed by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, and Silk Manufactures, and for preventing unlawful Combinations of Journeymen Dyers and Journeymen Hotpressers, and of all Persons employed in the said several Manufactures, and for the better Payment of their Wages,' as extends those provisions of the said act of the twelfth of George the First herein mentioned, to the persons therein mentioned; also so much of a certain other act passed in the twenty-ninth year of King George the Second, intituled, 'An Act to render more effectual an Act passed in the Twelfth Year of the Reign of his late Majesty King George, to prevent unlawful Combinations of Workmen employed in the Woollen Manufactures, and for the better Payment of their Wages; and also an Act passed in the Thirteenth Year of the Reign of his said late Majesty, for the better Regulation of the Woollen Manufacture, and for preventing Disputes among the Persons concerned therein, and for limiting a Time for Prosecution for the Forfeiture appointed by the aforesaid Act, in case of the Payment of the Workmen's Wages in any other manner than in money,' as relates to the making of rates for the payment of wages, continuing and altering and notifying them as therein mentioned; also so much of a certain other act passed in the parliament of Ireland, in the third year of King George the Third, intituled, 'An Act for continuing and amending certain Temporary Statutes heretofore made, for the better Regulation of the City of Cork, and for enlarging the Salary of the Treasurer, and for the better regulating the sale of Coals in the said City, and for erecting and continuing Lamps in the same, and for the better preserving the Streets and Highways therein, and for confirming and establishing a Court of Conscience in the said City, and for regulating the Assize of Bread therein, and for securing the Quays by Parapet Walls,' as relates to the assemblies and combinations of artificers, journeymen, appren-

6 Geo. 4, c. 129.

3 Geo. 2, c. 14
(1.) in part.17 Geo. 2, c. 28
(1.) in part.22 Geo. 2, c. 27,
s. 12.29 Geo. 2, c. 33,
s. 1.3 Geo. 3, c. 17
(1.) in part.

20. *Combinations amongst Masters or Workmen.*

6 Geo. 4, c. 129.
3 Geo. 3, c. 34
(1.) in part.

8 Geo. 3, c. 17.

11 & 12 Geo. 3,
c. 18 (1.).

11 & 12 Geo. 3,
c. 33 (1.) in part.

13 Geo. 3, c. 68,
s. 1 to 3 (a).

17 Geo. 3, c. 55,
s. 3, 4.

tices, labourers, and manufacturers therein mentioned; also so much of a certain other act passed in the parliament of Ireland, in the third year of King George the Third, intituled, 'An Act for the better Regulation of the Linen and Hempen Manufactures,' as relates to meeting, in order to consult upon or enter into rules, agreements, or combinations, to ascertain or fix the price of labour or workmanship, and as relates to administering oaths or declarations tending to fix the price of wages or workmanship, and as relates to issuing and delivering tickets, certificates, and tokens of parties being licensed to work, and as relates to rules, orders, and regulations relating to the price or wages of labour or workmanship, and as relates to oaths to enter into combinations or agreements to ascertain or fix the price of wages or workmanship, and to oaths and combinations not to work for a particular employer, as therein mentioned; also a certain other act passed in the eighth year of King George the Third, intituled, 'An Act to amend an Act made in the Seventh Year of King George the First, intituled, "An Act for regulating the Journeymen Tailors within the Weekly Bills of Mortality;"' also so much of a certain other act, passed in the parliament of Ireland, in the eleventh and twelfth years of King George the Third, intituled, 'An Act for the Regulation of the City of Cork, and for other Purposes therein mentioned relative to the said City,' as relates to the meetings and assemblies therein mentioned, the administering and taking oaths and declarations, to the tickets, certificates, advertisements, and writings, and to the rules, orders, agreements, and regulations, and to the combinations and agreements to ascertain or fix the price of wages, labour, or workmanship, or not to work, and as relates to the refusal or neglect, by persons not in actual service, to work on application made, and as relates to the detection and discovery of assemblies and combinations for any of the above-recited purposes, and as relates to ascertaining wages as therein mentioned; also so much of a certain other act, passed in the parliament of Ireland in the eleventh and twelfth years of King George the Third, intituled, 'An Act for regulating the Journeymen Tailors and Journeymen Shipwrights of the City of Dublin, and the Liberties thereof, and of the County of Dublin,' as punishes those who permit the clubs and societies therein mentioned to be kept or held in their houses or apartments, and as makes the contracts, covenants, and agreements therein mentioned, and oaths to enforce them, illegal, and as punishes persons for keeping up, continuing, acting in, making, entering into, signing, sealing, or being knowingly interested or concerned in such contracts, covenants, or agreements, and as punishes persons not retained or employed for refusing to enter into work or employment on request made, as therein mentioned, and as regulates the hours of work and the rate of wages as therein mentioned; also so much of a certain other act, passed in the thirteenth year of King George the Third, intituled, 'An Act to empower the Magistrates therein mentioned to settle and regulate the Wages of Persons employed in the Silk Manufacture within their respective Jurisdictions,' as relates to settling, regulating, ordering, and declaring the wages and prices of work, and the notification thereof, and makes it an offence to deviate from such settlement, regulation, order, and declaration, or to ask, receive, or take more or less wages, or larger or less prices, than shall be so settled, or to enter into combinations, or for that purpose to decoy or solicit, or to assemble, as therein mentioned, and as relates to the detection of such offences, and as makes it an offence to retain or employ journeymen weavers out of the limits therein mentioned; or to give, allow, or pay, or cause to be given, allowed or paid, more or less wages than shall be settled, as therein mentioned; also so much of a certain other act, passed in the seventeenth year of King George the Third, intituled, 'An Act for the better regulating the Hat Manufactory,' as relates to the keeping up, acting in, making, entering into, signing, sealing, or being knowingly concerned in the contracts, covenants, or agreements, by-laws, ordinances, rules, or orders of the

(a) It seems that this act is wholly repealed by 5 Geo. IV. c. 66.

club, societies, or combinations therein mentioned, or the presuming or attempting to put the agreements, by-laws, ordinances, rules, or orders, in execution, or to the attending meetings, clubs, societies, or combinations, or to the summoning, giving notice to, or calling upon, collecting, demanding, or receiving, persuading, enticing, or inveigling, or endeavouring to persuade, entice, or inveigle, paying money, making or entering into subscriptions or contributions as therein mentioned; also so much of a certain other act, passed in the parliament of Ireland in the nineteenth and twentieth years of King George the Third, intituled, 'An Act to prevent Combinations, and for the further Encouragement of Trade,' as declares that combinations in trade are public nuisances, and that the acts therein enumerated shall be considered as evidences of unlawful combinations, and sufficient for the conviction of any person who shall be guilty of the same, and as avoids rules, by-laws, and regulations, contrary to its provisions, and oaths for obeying or executing the same, and as provides for the case of an act of combination for which no specific punishment is pointed out, as therein mentioned; also so much of a certain other act, passed in the parliament of Ireland, in the nineteenth and twentieth years of King George the Third, intituled, 'An Act for the better Regulation of the Silk Manufacture,' as relates to the wages and prices for work, to combinations to raise wages, and the decoying or soliciting journeymen weavers, as therein mentioned; also so much of a certain other act passed in the parliament of Ireland in the nineteenth and twentieth years of King George the Third, intituled, 'An Act for the regulating the curing and preparing Provisions, and for preventing Combinations among the several Tradesmen and other Persons employed in making up such Provisions, and for regulating the Butter Trade in the City of Dublin, and for other Purposes therein mentioned,' as relates to summoning persons to appear at meetings and assemblies, and as relates to administering oaths or declarations, to the issuing and delivering of messages, tickets, certificates, tokens, advertisements, or writings, to making or joining in making rules, orders, agreements, and regulations, as therein mentioned, and as relates to taking oaths, or entering into combinations or agreements to ascertain or fix the price of wages, or of labour or workmanship, or to make any rule, order, agreement, or regulation, and to taking oaths, and entering into combinations and agreements not to work for a particular person, as therein mentioned, and as relates to the fixing of wages; also so much of a certain other act, passed in the parliament of Ireland, in the twenty-fifth year of King George the Third, intituled, 'An Act for granting the Sums of Twenty Thousand Pounds, Five Thousand Pounds, and Four Thousand Pounds, to certain Trustees, and for promoting the several Manufactures therein named,' as relates to the ascertaining the rates of labour and prices of workmanship, as therein mentioned, and as requires an affidavit to be filed previous to the commencement of a suit as therein mentioned; also so much of a certain other act, passed in the thirty-second year of King George the Third, intituled, 'An Act for extending the Provisions of an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled, "An Act to empower the Magistrates therein mentioned, to settle and regulate the Wages of Persons employed in the Silk Manufacture within their respective Jurisdictions," to Manufactories of Silk mixed with other Materials, and for the more effectual Punishment of Buyers and Receivers of Silk purloined and embezzled by Persons employed in the Manufacture thereof,' as extend the provisions of the said act of the thirteenth of George the Third, hereby repealed, to the persons therein mentioned; also a certain other act, passed in the thirty-sixth year of King George the Third, intituled, 'An Act to prevent unlawful combinations of Workmen employed in the Paper Manufactory;' also so much of a certain other act, passed in the thirty-ninth year of King George the Third, intituled, 'An Act to explain and amend the Laws relative to Colliers in that Part of

20. *Combinations amongst Masters or Workmen.*
6 Geo. 4, c. 129.
19 & 20 Geo. 3, c. 19 (l.) in part.
19 & 20 Geo. 3, c. 24 (l.) in part.
19 & 20 Geo. 3, c. 36 (l.) in part.
25 Geo. 3, c. 48, (l.) in part.
32 Geo. 3, c. 44, s. 1 (a).
36 Geo. 3, c. 11.
39 Geo. 3, c. 56, s. 2.

(a) It seems that this act is wholly repealed by 5 Geo. IV. c. 66.

20. *Combinations amongst Masters or Workmen.*

6 Geo. 4, c. 129.

39 & 40 Geo. 3, c. 106, except ss. 18—22.

43 Geo. 3, c. 86, s. 1 to 4, and s. 10.

* *Sic.*

47 Geo. 3, s. 1, c. 43.

57 Geo. 3, c. 122, s. 3.

And all acts relative to combination of workmen or masters as to wages, time of working, or quantity of work, &c., repealed.

Exception.

Compelling journeymen to leave

Great Britain called Scotland,' as relates to the fixing and appointing of hire and wages; also an act, passed in the thirty-ninth and fortieth years of King George the Third, intituled, 'An Act to repeal an Act passed in the last Session of Parliament, intituled, "An Act to prevent unlawful Combinations of Workmen," and to substitute other Provisions in lieu thereof,' excepting so much thereof as relates to the adjustment of disputes between masters and workmen, as therein mentioned; also so much of a certain other act, passed in the forty-third year of King George the Third, intituled, 'An Act to prevent unlawful Combinations of Workmen, Artificers, Journeymen, and Labourers in Ireland, and for other Purposes relating thereto,' as makes illegal and void contracts, covenants, and agreements, for obtaining an advance of wages, or for lessening or altering the hours or time of working, or for decreasing the quantity of work, or for controlling or affecting the conduct or management of any manufacture, trade, or business, and as prohibits the making or entering into, or being concerned in the same, and as punishes persons for so doing, and as relates to the combinations therein mentioned, and as relates to endeavouring by gift, persuasion, or solicitation, to prevent persons hiring themselves, and as relates to attending the meetings therein mentioned, or endeavouring to induce the attendance of others, and collecting, demanding, asking, or receiving money, for the purposes therein mentioned, and as relates to persuading, enticing, soliciting, or endeavouring to induce others to enter into or be concerned in the combinations therein mentioned, and to paying money, making or entering into subscriptions or contributions, and to oaths and declarations, and to tickets, certificates, and tokens, and to contributions* supporting and maintaining others, as therein mentioned, and as punishes persons for permitting assemblies in their houses or apartments, as therein mentioned; also a certain other act, passed in the forty-seventh year of King George the Third, intituled, 'An Act to declare that the Provisions of an Act, made in the Parliament of Ireland, in the Thirty-third Year of King Henry the Eighth, relating to Servants' Wages, shall extend to all Counties of Cities and Counties of Towns in Ireland;' also so much of a certain other act, passed in the fifty-seventh year of King George the Third, intituled, 'An Act to extend the Provisions of an Act of the Twelfth Year of his late Majesty King George the First, and an Act of the Twenty-second Year of his late Majesty King George the Second, against Payment of Labourers in Goods or by Truck, and to secure their Payment in the lawful Money of this Realm, to Labourers employed in the Collieries, or in the working and getting of Coal, in the United Kingdom of Great Britain and Ireland, and for extending the Provisions of the said Acts to Scotland and Ireland,' as did extend to Scotland and Ireland any of the provisions of the acts intended to be repealed by the said recited act of the last session of parliament; and all enactments in any other statutes or acts which, immediately before the passing of the said recited act of the last session of parliament, were in force throughout or in any part of the United Kingdom of Great Britain and Ireland, relative to combinations to obtain an advance of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or to regulate or controul the mode of carrying on any manufacture, trade, or business, or the management thereof, or relative to combinations to lower the rate of wages, or to increase or alter the hours or duration of the time of working, or to increase the quantity of work, or to regulate or controul the mode of carrying on any manufacture, trade, or business, or the management thereof, or relative to fixing the amount of the wages of labour, or relative to the obliging workmen not hired to enter into work, and every enactment enforcing or extending the application of any of the said several enactments so repealed, shall, notwithstanding the repeal of the said recited act of the last session of parliament, still be and remain repealed, except only so far as the same or any of them may have repealed any former act or enactment."

Sect. 3. "From and after the passing of this act, if any person shall by violence to the person or property, or by threats or intimidation, or by molest-

ing or in any way obstructing another, force or endeavour to force any journeyman, manufacturer, workman, or other person hired or employed in any manufacture, trade, or business, to depart from his hiring, employment, or work, or to return his work before the same shall be finished, or prevent or endeavour to prevent any journeyman, manufacturer, workman, or other person not being hired or employed from hiring himself to, or from accepting work or employment from any person or persons; or if any person shall use or employ violence to the person or property of another, or threats or intimidation, or shall molest or in any way obstruct another for the purpose of forcing or inducing such person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty, or on account of his not belonging to any particular club or association, or not having contributed or having refused to contribute to any common fund, or to pay any fine or penalty, or on account of his not having complied, or of his refusing to comply, with any rules, orders, resolutions, or regulations made to obtain an advance or to reduce the rate of wages, or to lessen or alter the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof; or if any person shall by violence to the person or property of another, or by threats or intimidation, or by molesting or in any way obstructing another, force or endeavour to force any manufacturer or person carrying on any trade or business, to make any alteration in his mode of regulating, managing, conducting, or carrying on such manufacture, trade, or business, or to limit the number of his apprentices, or the number or description of his journeymen, workmen, or servants; every person so offending, or aiding, abetting, or assisting therein, being convicted thereof in manner hereinafter mentioned, shall be imprisoned only, or shall and may be imprisoned and kept to hard labour, for any time not exceeding three calendar months."

20. *Combinations amongst Masters or Workmen.*

6 Geo. 4, c. 129.

employment, or to return work unfinished;

preventing hiring themselves;

compelling them to belong to clubs, &c.;

or to pay fines;

or to alter mode of carrying on business.

Punishment.

Proviso for meetings for settling rates of wages to be received, or hours of work to be employed by the persons meeting.

Proviso for meetings for rates of wages, &c., to be paid by masters to journeymen, &c.

Offenders compelled to give evidence.

Indemnified.

Sect. 4. "This act shall not extend to subject any persons to punishment, who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices, which the persons present at such meeting, or any of them, shall require or demand for his or their work, or the hours or time for which he or they shall work in any manufacture, trade, or business, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which the parties entering into such agreement, or any of them, shall require or demand for his or their work, or the hours of time for which he or they will work, in any manufacture, trade, or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing; any law or statute to the contrary notwithstanding."

Sect. 5. "This act shall not extend to subject any persons to punishment who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices which the persons present at such meeting, or any of them, shall pay to his or their journeymen, workmen, or servants, for their work, or the hours or time of working in any manufacture, trade, or business, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices, which the parties entering into such agreement, or any of them, shall pay to his or their journeymen, workmen, or servants, for their work or the hours or time of working in any manufacture, trade, or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing, any law or statute to the contrary notwithstanding."

Sect. 6. "All and every persons and person who shall or may offend against this act, shall and may, equally with all other persons, be called upon and compelled to give his or her testimony and evidence as a witness or witnesses on behalf of his majesty, or of the prosecutor or informer, upon any information to be made or exhibited under this act, against any other person or persons not being such witness or witnesses as aforesaid; and that in all such cases every person having given his or her testimony or evidence

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6 Geo. 4, c. 129.

Justices may summon offenders.

Not appearing, warrants may be issued.

On their appearance, or proof (on oath) of absconding.

Proceedings.

Justices may summon witnesses.

Non-appearance, &c.

Proceedings.

Punishment.

as aforesaid, shall be and is hereby indemnified of, from, and against any information to be laid, or prosecution to be commenced, against him or her, for having offended in the matter wherein or relative to which he, she, or they shall have given testimony or evidence as aforesaid."

Sect. 7. "For the more effectually enforcing and carrying into execution the provisions of this act," enacts, "that on complaint and information on oath before any one or more justice or justices of the peace, of any offence having been committed against this act, within his or their respective jurisdictions, and within six calendar months before such complaint or information shall be made, such justice or justices are hereby authorized and required to summon the person or persons charged with being an offender or offenders against this act, to appear before any two such justices, at a certain time or place to be specified: and if any person or persons so summoned shall not appear according to such summons, then such justices, (proof on oath having been first made before them of the due service of such summons upon such person or persons, by delivering the same to him or them personally, or leaving the same at his or their usual place of abode, provided the same shall be so left twenty-four hours at the least before the time which shall be appointed to attend the said justices upon such summons), shall make and issue their warrant or warrants for apprehending the person or persons so summoned, and not appearing as aforesaid, and bringing him or them before such justices; or it shall be lawful for such justices, if they shall think fit, without issuing any previous summons, and instead of issuing the same, upon such complaint and information as aforesaid, to make and issue their warrant or warrants for apprehending the person or persons by such information charged to have offended against this act, and bringing him or them before such justices; and upon the person or persons complained against appearing upon such summons, or being brought by virtue of such warrant or warrants before such justices, or upon proof on oath of such person or persons absconding, so that such warrant or warrants cannot be executed, then such justices shall and they are hereby authorized and required forthwith to make inquiry touching the matters complained of, and to examine into the same by the oath or oaths of any one or more credible person or persons, as shall be requisite, and to hear and determine the matter of every such complaint; and upon confession by the party, or proof by one or more credible witness or witnesses upon oath, to convict or acquit the party or parties against whom complaint shall have been made as aforesaid."

Sect. 8. "It shall be lawful for the justices of the peace before whom any such complaint and information shall be made as aforesaid, and they are hereby authorized and required, at the request in writing of any of the parties, to issue his or their summons to any witness or witnesses to appear and give evidence before such justices, at the time and place appointed for hearing and determining such complaint, and which time and place shall be specified in such summons; and if any person or persons so summoned to appear as a witness or witnesses as aforesaid, shall not appear before such justices, at the time and place specified in such summons, or offer some reasonable excuse for the default, or appearing according to such summons, shall not submit to be examined as a witness or witnesses, and give his or their evidence before such justices, touching the matter of such complaint, then and in every such case it shall be lawful for such justices, and they are hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such justice of the peace, of the due service of such summons on every such person, by delivering the same to him or her, or by leaving the same twenty-four hours before the time appointed for such person to appear before such justices, at the usual place of abode of such person), by warrant under the hands of such justices, to commit such person or persons so making default in appearing, or appearing and refusing to give evidence, to some prison within the jurisdiction of such justices, there to remain without bail or mainprize, for three calendar months, or until such person or persons shall submit to be examined and give evidence before such justices as aforesaid."

Sect. 9. "The justices before whom any person or persons shall be convicted of any offence against this act, or by whom any person shall be committed to prison for not appearing as a witness, or not submitting to be examined, shall cause all such convictions and the warrants or orders for such commitments, to be drawn up in the form or to the effect set forth in the schedule to this act annexed."

Sect. 10. "The justices before whom any such conviction shall be had, shall cause the same (drawn up in the form or to the effect hereinbefore directed) to be fairly written on parchment, and transmitted to the next general sessions or general quarter sessions of the peace to be holden for the county, riding, division, city, liberty, town, or place wherein such conviction was had, to be filed amongst the records of the said general sessions or general quarter sessions; and in case any person or persons shall appeal, in manner hereinafter mentioned, from the judgment of the said justices, to the said general sessions or general quarter sessions, the justices in such general sessions or general quarter sessions, are hereby required, upon receiving such conviction, to proceed to the hearing and determination of the matter of the said appeal, according to the directions of this act."

Sect. 11. "In Scotland all prosecutions under this act may be insisted on at the instance of the public prosecutor, and may be judged of, either by two justices of the peace, or by the sheriff of the county within which the offence may have been committed."

Sect. 12. "If any person convicted of any offence or offences punishable by this act, shall think himself or herself aggrieved by the judgment of such justices, before whom he or she shall have been convicted, such person shall have liberty to appeal from every such conviction to the next court of general sessions or general quarter-sessions of the peace which shall be held for the county, riding, division, city, liberty, town or place wherein such offence was committed; and that the execution of every judgment so appealed from shall be suspended, in case the person so convicted shall immediately enter into recognizances before such justices (which they are hereby authorized and required to take), himself in the penal sum of 10*l.*, with two sufficient sureties in the penal sum of 10*l.* of lawful money of Great Britain, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the said next general sessions or general quarter-sessions, and to pay such costs as the said court shall award on such occasion; and the justices in the said next court of general sessions or general quarter-sessions are hereby authorized and required to hear and determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party, which decision shall be final; and if, upon hearing the said appeal, the judgment of the justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately be committed by the said court to the common gaol or house of correction, without bail or mainprize, according to such conviction, and for the space of time therein mentioned."

Sect. 13. "No justice of the peace, being also a master in the particular trade or manufacture, in or concerning which any offence is charged to have been committed under this act, shall act as such justice under this act."

21. *Assaults on Conspiracy to raise Wages.*

6 Geo. 4, c. 129.

Form of convictions, &c.

Convictions to be transmitted to sessions, to be filed.

Scotland.

Appeal (a).

Security to prosecutor.

Costs.

Imprisonment.

No master to act as justice.

XXI. Assaults on Conspiracy to raise Wages.

The 9 Geo. IV. c. 31, s. 25, enacts, that where any person shall be charged with and convicted of any of the following offences as misdemeanors; that is to say, amongst others, of any assault committed in pursuance of any conspiracy to raise the rate of wages; in any such case, the court may sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house of correction, for any term not ex-

Assaults under a conspiracy to raise wages.

(a) See Vol. I., title "Appeal."

25. *When Master may beat his Servant.*

ceeding two years; and may also (if it shall so think fit) fine the offender, and require him to find sureties for keeping the peace. See this offence fully considered, title "*Assaults*," Vol. I. p. 289.

XXII. Assaults on Seamen, &c. to prevent them Working.

Assault on any keelman, &c., to prevent him from working.

The 9 Geo. IV. c. 31, s. 26, enacts, that if any person shall unlawfully and with force hinder any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat, wound, or use any other violence to him, with intent to deter or hinder him from working at or exercising the same; every such offender may be convicted thereof before two justices of the peace, and imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding three calendar months: provided always, that no person who shall be punished for any such offence by virtue of this provision shall be punished for the same offence by virtue of any other law whatsoever. See this provision, and the general clauses and law, more fully collected, title "*Assault*," Vol. I. p. 293.

See also, as to seamen in general, *ante*, "*Seamen*."

XXIII. Servants Firing Houses.

Servants firing houses.

By the 6 Anne, c. 31, s. 3, if any menial or other servant, through negligence or carelessness, shall fire or cause to be fired any dwelling-house or out-house, and be convicted thereof, by oath of one witness before two justices, he shall forfeit 100*l.* to the churchwardens, to be distributed amongst the sufferers by such fire, as to the said churchwardens shall seem fit; and if he shall not pay the same immediately on conviction, on demand by the churchwardens, he shall be committed by the said justices to some workhouse or house of correction, for eighteen months, there to be kept to hard labour. *Vide* title "*Burning*," Vol. I. p. 558, and a form there, p. 561.

By the 14 Geo. III. c. 78, s. 84, the same offence is provided against in exactly the same words, and the same penalty is imposed; but the words "*common gaol*" are added to the words "*workhouse or house of correction*." But this act is only applicable to offences of this kind in the *bills of mortality*, &c.

XXIV. Servant Stealing or Embezzling his Master's Goods.

Larceny.

In title "*Larceny*," Vol. III., full information as to this offence will be found.

Soliciting servant to steal master's goods.

It is an indictable offence to incite and solicit a servant to steal his master's goods, though the servant do not steal the goods, and no other act be done, except the soliciting and inciting. This was decided in the case of *R. v. Higgins*, 2 *East*, 5; *et vide* Vol. I., p. 304.

And from the same case it appears that such offence is indictable at the quarter-sessions, as falling in with that class of offences, which, being violations of the law of the land, have a tendency, as it is said, to a breach of the peace, and are therefore cognizable by that jurisdiction. See *ante*, "*Attempts*," Vol. I.

Embezzlement by the servant is a good cause for his dismissal, *ante*, 491.

XXV. When Master may beat his Servant.

Master beating servant.

The master is allowed by law, with moderation, to chastise his *apprentice* for negligence, or other misbehaviour, 1 *Bla. Com.* 428; 1 *Haw. c.* 29; *Winstone v. Linn*, 1 *B. & C.* 469; 2 *D. & Ry.* 465; 1 *D. & R. M. C.* 339,

S. C.; title "Apprentice," Vol. I.; though he cannot delegate that authority to another. (9 Co. 76.)

But a master has no such power over a domestic servant. (*Winstone v. Linn*, 1 B. & C. 469; 2 D. & R. 465; 1 D. & R. M. C. 339, S. C.)

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And if the master or mistress beat any workman or labourer, it may be a good cause of discharge, on complaint to the justices. (*Dalt.* c. 58, p. 141; *F. N. B.* 168; 1 *Bla. Com.* 428; 1 B. & Cres. 469; 2 D. & R. 465.)

Where a master, in correcting his servant, happens to occasion his death, it shall be deemed homicide by misadventure; yet if in his correction he be so barbarous as to exceed all bounds of moderation, and thereby occasion the servant's death, it is manslaughter at least; and if he make use of an instrument improper for correction, and apparently endangering the servant's life, it is murder. (1 *Haw.* c. 29, s. 5; title "Homicide," Vol. III. p. 316.)

And if the workman or labourer shall depart out of his master's service, and the master happen afterwards to lay hold of him, yet the master in this case may not beat or forcibly compel such workman or labourer against his will to return or tarry with him, or do his service; but either he must complain to the justice, for such workman or labourer's departure, or he may have an action of covenant against him. (*Dalt.* c. 121, p. 281, 282.)

See, further, title "Assault," Vol. I. p. 280, 281.

If a sailor or soldier be guilty of disobedience, disorderly conduct, or mutiny, he may be corrected in a reasonable manner to secure subordination and prevent mutiny. (See *Abbott on Ship.* 160; *B. N. P.* 19; 2 C. & P. 148; *Watson v. Christie*, 2 B. & P. 224; *Capt. Kidd's case*, 5 *State Trials*, 287; *Chit. General Prac.* 73.)

Sailor or soldier.

XXVI. Master may beat another in Defence of his Servant, or Servant in Defence of Master.

According to some opinions, a master shall not forfeit a recognizance of the peace for beating another in defence of his servant; nor the servant for beating another in defence of his master. (1 *Haw.* c. 60, s. 24.)

Master beating another in defence of servant.

But in *Leeward v. Basilee*, 1 *Salk.* 407; 1 *Ld. Raym.* 62; *B. N. P.* 18; it was held by the court, that a servant may justify an assault in defence of his master, but not a master in defence of his servant; because he might have an action for the loss of his service.

In the case of *Tickel v. Read*, on an action of assault and battery, the defendant pleaded a special plea in justification, that he assisted his servant, whom the plaintiff was beating. It was contended, that the law will not justify a master interposing on an assault against his servant, by assaulting the person who beats the servant, as it doth a servant in like case interposing for his master; because it is the duty of the servant, who is hired to serve and be assistant to his master's person, but not so the master to his servant. On the other hand, it was contended that the duty of the master and servant is reciprocal; and if the servant owe to the master fidelity and obedience, the master owes to the servant protection and defence; and therefore that the defendant might well justify by this plea. *Ld. Mansfield*, C. J.: "I cannot say that a master interposing, when his servant is assaulted, is not justifiable, under the circumstances of the case, as well as a servant interposing for his master: it rests on the relation between master and servant." (*Lofft*, 215.)

See, further, title "Assault," Vol. I. p. 280, 281; *Chit. Gen. Prac.* 79.

XXVII. When Master answerable for Servant's Acts.

The master is indictable for a nuisance done by his servant, as for throwing dirt in the highways. (*Tuberville v. Stampe*, 1 *Ld. Raym.* 264; *Carth.* 425, S. C.)

Crimes and torts.

The proprietor of a newspaper is liable, criminally as well as civilly, for

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misconduct in the paper, *e. g.*, for the publication of a libel, though he has nothing to do with the publication, and the whole is conducted by his servants. (*R. v. Walter*, 3 *Esp.* 21; *R. v. Alexander*, *M. & M. C. N. P.*; and see, further, title "*Libel*," Vol. III.)

But nevertheless it seemeth, that the servant also is indictable in these cases; for Mr. *Hawkins* says, that a servant is not excused the commission of any crime by the command or coercion of his master. (1 *Haw. c. 1*, s. 14.)

A baker is indictable for the sale of bread in which his servant had improperly mixed alum. (3 *M. & Sel.* 11.)

A master is liable in penalties for the illegal act of his servant, done in the conduct of the master's business, with a view to protect the master's property, though the master be absent at the time, and the act be done by the servant upon the exigency of the occasion. Where, therefore, upon the detection of smuggled tobacco in the house of his master, a servant, in his master's absence, and without his knowledge, procured a fabricated permit, with a view to protect the goods, it was holden, that the master was liable to the penalty for using the permit, because the circumstances in the case clearly showed it to be that of the servant of a fraudulent master attempting to conceal his master's offence, and to avert its consequences. And where the master is thus engaged in carrying on an illegal traffic, if the servant adopts means calculated to save the master, and which can have no other object, the act of the servant must be taken to be committed by him in the service and for the benefit of such master, and to be within the authority probably given by him in such a conjuncture. (*Attorney-General v. Siddon*, 1 *Cromp. & Jerv.* 220; 1 *Tyrw.* 41, S. C.)

If a servant commit a trespass by the command or encouragement of his master, the master shall be guilty of it, though the servant is not thereby excused, for he is only to obey his master in matters that are honest and lawful. (1 *Bla. Com.* 429.)

A master is not liable for the *wilful act* of his servant, as by driving his master's carriage against another, done without the direction or assent of the master. But he is liable to answer for any damage arising to another from the negligence or unskilfulness of his servant acting in his employ. (*M. Manus v. Crickett*, 1 *East*, 106; *Comyn's Rep.* 469; *Sanderson v. Baker*, 3 *Wils.* 317.)

If a servant driving a carriage, in order to effect some purpose of his own, *wantonly* strike the horses of another person, and produce an accident, the master will not be liable. But if, in order to perform his master's orders, he strikes, but injudiciously, and in order to extricate himself from a difficulty, that will be negligent and careless conduct, for which the master will be liable, being an act done in pursuance of the servant's employment. (*Per Cur. in Croft v. Alison*, 4 *B. & Ald.* 590; and see *Bowcher v. Noidstrom*, 1 *Taun.* 568.)

If horses are hired out to draw a private carriage, but are driven by the servant of the person who let them, he shall be liable for any injury done by them. (*Samnell v. Wright*, 5 *Esp.* 263.)

A person occasionally employed by the defendant as his servant, being sent out by him on his business, took the horse of another person, in whose service he also worked, and, in going, rode over the plaintiff. At the trial, it was left to the jury to say whether or not the horse was taken by the servant with the implied consent or authority of the defendant; and they having found a verdict for the plaintiff, the court refused to grant a new trial. (*Goodman v. Kennell*, 1 *M. & P.* 241; 3 *C. & P.* 167, S. C.)

The owner of a carriage hired four post-horses and two postillions of a livery-stable keeper for the day, to take him from London to Epsom and back. In returning, the postillion damaged the carriage of C.: held, that the livery-stable keeper, as owner of the horses and master of the postillions, was liable to C. for such damage. (*Smith v. Lawrance*, 2 *M. & R.* 1; see the case of *Laugher v. Pointer*, 5 *B. & C.* 547.)

A. and B. are partners in the business of public carriers: by a contract

between them, A. finds horses and drivers for certain stages, and B. supplies for the remaining stages. They are, notwithstanding this division of the concern, jointly responsible for the misconduct and negligence of their drivers and servants throughout the whole distance; and it is no defence to B. that the servant by whom an injury is committed was the special servant of A., and hired and paid by A. alone. (*Weyland v. Elkins*, Holt, 227; *Waland v. Elkins*, 1 Stark. 272; see *Moreton v. Hardern*, 4 B. & C. 223; 6 D. & R. 275, S. C.)

A master is liable for the contracts of his servants, within the scope of his employment, on the ground of an authority delegated by the master expressly or impliedly to the servant. (*Bac. Ab. Master and Servant*, (K.)) The responsibility for the act of a domestic servant does not rest on the circumstance of the master being *paterfamilias*. The master's assent must in all cases appear either by express evidence thereof, or by the proof of facts, from which the law raises an inference that such assent was given. (*Chit. Jun., Contr.* 174.)

If a person, who has been in the habit of paying ready money, gives his servant money to buy meat for the use of the family, and the servant, instead of paying ready money, orders the meat on credit, and embezzles the money, the master is not liable. (*Stubbing v. Heintz*, Peake, 47.)

And so, where the master gives the servant money beforehand to pay for goods. (*Rusby v. Scarlett*, 5 Esp. 76, *Ellenborough*.)

But where he authorizes his servant to take up goods, and afterwards gives him money to pay, if the servant embezzle the money, the master is liable for the goods. (*Id.*)

When the master of a family is in the habit of paying ready money for articles furnished in certain quantities to his family, if the tradesman suffers other goods of the same sort to be delivered without informing the master, or satisfying himself that they were for his use, when, in fact, they were not, the master shall not be liable. (*Pearce v. Rogers*, 3 Esp. 214; and see *Stubbing v. Heintz*, Peake, 47; *Filmer v. Lynn*, 4 Nev. & M. 559; 1 Harr. & W. 59.)

A master is not liable for spirituous liquors ordered by his butler in the name of the master, unless he had on former occasions paid for goods so ordered, or there is evidence to show that the butler had authority from the master for so doing. (*Maunder v. Conyers*, 2 Stark. 281, *Ellenborough*.)

Where articles are furnished to the use of a master, though the servant was by agreement to provide them, the master is liable to the tradesman who furnished them. (*Precious v. Abel*, 1 Esp. 350.)

If a coachman go in his master's livery, and hire horses, which his master afterwards uses, the master is bound to pay for the hire of the horses, although he had previously agreed to pay the coachman a large salary to provide horses; unless the person of whom the horses were hired had some notice that the coachman hired them on his own account, and not for his master. (*Rimell v. Sampayo*, 1 C. & P. 254.)

But if a servant employ a tradesman to do any work who has not been employed before by the master, and the tradesman does the work without communication with the master, though the thing to which it was done was the property of the master, he is not liable. (*Hiscot v. Greenwood*, 4 Esp. 174.)

See, further, *Chit. Jun., Contr.* 174, 2nd. ed.

XXVIII. Enticing away, &c. a Servant, and Right to his Services.

The remedy now pursued for retaining a servant in the service of another is an action by the old master against the new one, and the servant, or either of them, for damages. But, in order to entitle a man to the action, it is as necessary now as when the 35 Edw. III. st. 1, c. 1 (repealed by the 5 Eliz. c. 4), was in force, that the new master should know of the servant's engage-

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away, &c. a
Servant, &c.*

ment with the other at the time of his retaining him, or that he should afterwards refuse to restore him upon information or demand. (*Fawcett v. Beavres et ux.* 2 *Lev.* 63; 1 *Leon.* 240.)

The retaining another person's servant during the time he has agreed to serve his present master, as it is an ungentlemanlike, so it is also an illegal act: for every master has, by his contract, purchased for a valuable consideration the service of his domestics for a limited time. The inveigling or hiring his servant, which induces a breach of this contract, is therefore an injury to the master; and for that injury the law has given him a remedy by a special action on the case; and he may also have an action against the servant for the non-performance of his agreement. (3 *Bla. Com.* 142; *F. N. B.* 167.)

And an action will lie for receiving or continuing to employ the servant of another after notice, without enticing him away. Therefore, where no fault could be imputed to the defendant for taking the party into his service in the first instance, because then he had no notice of such party's prior engagement, yet, as soon as he had notice of that fact, he ought to have discharged him. A person who contracts with another to do certain work for him is the servant of that other till the work is finished, and no other person can employ such servant to the prejudice of the first master: the very act of giving him employment is affording him the means of keeping out of his former service. (*Blake v. Lanyon*, 6 *T. R.* 221.)

(*Hart v. Aldridge*, 1 *Cowp.* 54.) On a special verdict, the jury found that the plaintiff, being a shoemaker, employed a journeyman to make up shoes for him, and retained him by the piece, but not for any certain time. This man being hired by another, and leaving his service, the work being unfinished, the shoemaker brought his action against the person so hiring him for enticing his servant out of his service. The question was, whether this person be a *servant* of the plaintiff, so that he may maintain an action and recover damages on his being enticed from his service; and whether there be sufficient upon the verdict to entitle the plaintiff to recover. Lord *Mansfield*, C. J., asked how they defined the word *journeyman*. It was answered, that they apprehended it to mean no more than a man who was out of his time, and was not master. Lord *Mansfield* said further, "Doth not a journeyman imply the particular relation of *servant* to the man? It is apparently a *service*. The jury have found expressly that he was *hired* by the piece; and this is a sufficient retainer. *Journeyman*, in the original etymology, is a servant for the *day*, in whose service the master hath certainly an interest. Many servants are taken to work by the piece; if otherwise, they would often be idle. This case lies upon the circumstance of his being found a *journeyman*; otherwise it might have been that the master took any who pleased to work for him to stay as long as he pleased, and go when he pleased." And *Aston*, J., said, "Every man is entitled to an action who hath sustained damages by wrong: therefore, if a servant be retained for any special work, and departs from this unfinished, an action will lie against any who seduces him to depart. And the seducer or enticer is much the greater offender." Judgment for the plaintiff.

No action lies for seducing a servant from his master, who had paid the penalty stipulated by his articles for leaving him. (*Bird v. Randall*, 3 *Burr.* 1345; 1 *Bla. R.* 373, 387, *S. C.*)

Nor for inducing a servant to leave his master's service at the expiration of the time for which he had hired himself, although he had no previous intention of quitting his master's service. (*Nichol v. Martyn*, 2 *Esp.* 734.)

Where negroes, in a state of slavery in a colony of Spain, escaped from their master's plantation, and took refuge and were received on board a *British* ship of war, whilst she was stationed at an island captured by his majesty's arms from the *United States* in time of war, and, after notice given to the officers commanding on the station that they were runaway slaves, the officers carried them to and left them at a *British* colony: held, by the Court of King's Bench, that a *British* merchant, resident in the

colony, who claimed the slaves as his property, could not maintain an action against the officers for harbouring and detaining such negroes, although, by the *lex loci* from whence they escaped, slavery was permitted and tolerated. (Forbes v. Cochrane, 3 D. & R. 679; 2 B. & C. 448, S. C.)

See, further, title "Apprentice," Vol. I. p. 182.

A servant while in his master's service, in a trade, may solicit business from his customers for himself, when his service is at an end, and he sets up on his own account. (*Nichol v. Martyn*, 2 Esp. 732.) And therefore if any loss is to be apprehended from such an attempt, it should be specially prohibited and limited to a certain distance from the place of employment, so as not to constitute too general a restraint of trade. (*Young v. Timmins*, 1 C. & J. 331.)

When servant may solicit customers.

If a servant, while in the employ of his master, make an invention, that invention belongs to the servant, and not to the master; but *semble*, that if the master employ a skilful person for the express purpose of inventing, the inventions made by him will so much belong to the master, as to enable him to take out a patent for them. (*Bloxam v. Elsee*, 1 C. & P. 558.)

When master entitled to servant's inventions, &c.

XXIX. Characters of Servants.

By the 32 Geo. III. c. 56, "for preventing the Counterfeiting of Certificates of the Characters of Servants," after reciting, that "many false and counterfeit characters of servants have either been given personally or in writing by evil-disposed persons, being, or pretending to be, the master, mistress, retainer, or superintendent of such servant, or by persons who have actually retained such servants in their respective service, contrary to truth and justice, and to the peace and security of his majesty's subjects; and whereas the evil herein complained of is not only difficult to be guarded against, but is also of great magnitude, and continually increasing, and no sufficient remedy has hitherto been applied:" it is enacted, "that if any person or persons shall falsely personate any master or mistress, or the executor, administrator, wife, relation, housekeeper, steward, agent, or servant of any such master or mistress, and shall either personally or in writing give any false, forged, or counterfeited character to any person offering him or herself to be hired as a servant into the service of any person or persons, then, and in such case, every such person or persons so offending shall forfeit and undergo the penalty and punishment hereinafter mentioned and in that behalf provided."

32 Geo. 3, c. 56.

Personating a master, &c., or giving a false character;

Sect. 2. "If any person or persons shall knowingly and wilfully pretend, or falsely assert, in writing, that any servant has been hired or retained for any period of time whatsoever, or in any station or capacity whatsoever, other than that for which or in which he, she, or they shall have hired or retained such servant in his, her, or their service or employment, or for the service of any other person or persons, that then, and in either of the said cases, such person or persons so offending, as aforesaid, shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

or asserting that servant has been hired for a period of time, or in a particular station;

"Sect. 3. "If any person or persons shall knowingly and wilfully pretend, or falsely assert, in writing, that any servant was discharged, or left his, her, or their service at any other time than that at which he or she was discharged, or actually left such service, or that any such servant had not been hired or employed in any previous service, contrary to truth, that then, and in either of the said cases, such person or persons shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

or was discharged at any other time, or had not been hired in any previous service; contrary to the fact;

Sect. 4. "If any person shall offer himself or herself as a servant, asserting or pretending that he or she hath served in any service in which such servant shall not actually have served, or with a false, forged, or counterfeit

or offering himself as a servant, pretending to have

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32 Geo. 3, c. 56.

served where he had not, or with a false certificate, or altering certificate ;

or pretending not to have been in service.

Penalty 20*l*.

Application of forfeiture.

Commitment.

Informer competent witness.

Offenders discovering accomplices indemnified.

Conviction, form of (a).

certificate of his or her character, or shall in anywise add to or alter, efface or erase any word, date, matter, or thing contained in or referred to in any certificate given to him or her by his or her last or former actual master or mistress, or by any other person or persons duly authorized by such master or mistress to give the same, that then, and in either of the said cases, such person or persons shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

Sect. 5. "If any person or persons, having before been in service, shall, when offering to hire himself, herself, or themselves, as a servant or servants in any service whatsoever, falsely and wilfully pretend not to have been hired or retained in any previous service as a servant, that then, and in such case, such person or persons shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

Sect. 6. "If any person or persons shall be convicted of any or either of the offence or offences aforesaid, by his, her, or their confession, or by the oath of one or more credible witness or witnesses, before two or more justices of the peace for the county, riding, division, city, liberty, town, or place, where the offence or offences shall have been committed (which oath such justices are hereby empowered and required to administer), every such offender or offenders shall forfeit the sum of 20*l*.; one moiety whereof shall be paid to the person or persons on whose information the party or parties offending shall have been convicted, and the other moiety thereof shall go and be applied for the use of the poor of the parish wherein the offence shall have been committed; and if the party who shall have been so convicted shall not immediately pay the said sum of 20*l*. so forfeited, together with the sum of 10*s*. for the costs and charges attending such conviction, or shall not give notice of appeal, and enter into recognizance in the manner hereinafter mentioned and in that behalf provided, such justices shall and may commit every such offender to the house of correction, or some other prison, of the county, riding, division, city, liberty, town, or place, in which he or she shall have been convicted, there to remain, and be kept to hard labour, without bail or mainprize, for any time not exceeding three months, nor less than one month, or until he or she pay the said sum so forfeited, together with such costs and charges, as aforesaid."

Sect. 7. "Whereas it most frequently happens, that no person is present at or privy to the giving of the character of a servant, except the persons by and to whom the same is given;" it is enacted, "that the informer, in any of the cases aforesaid, shall be, and shall be deemed and taken to be, a good and competent witness in law, notwithstanding he shall be entitled to a part of the said penalty where the same shall be levied, as aforesaid."

Sect. 8. "If any servant or servants, who shall have been guilty of any of the offences aforesaid, shall, before any information has been given or lodged against him, her, or them for such offence, discover and inform against any person or persons concerned with him, her, or them in any offence against this act, so as such offender or offenders be convicted of such offence in manner aforesaid, every such servant or servants so discovering and informing shall thereupon be discharged and indemnified of, from, and against all penalties and punishments to which, at the time of such information given, he, she, or they might be liable by this act, for or by reason of such his, her, or their own offence or offences."

Sect. 9. "For the more easy and speedy conviction of offenders against this act," it is enacted, "that all justices of the peace, before whom any person or persons shall be convicted of any offence against this act, shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen: *videlicet*,

"Be it remembered, that on the day of , in the year of our Lord , A. B. is convicted before us, two of his majesty's justices of

(a) See Vol. I., title "Conviction."

the peace for the county of _____, [set forth the offence, and the time and place when and where the same was committed, as the case may be]. Given under our hands and seals, the day and year aforesaid." 29. Characters of Servants.

Sect. 10. "If any person shall think himself or herself aggrieved by any thing done in pursuance of this act, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall have arisen; such appellant entering into a recognizance, with two sufficient sureties, in the sum of 20*l.* each, conditioned to try such appeal, and abide the order of, and to pay such costs as shall be awarded by such justices at such general or quarter sessions, upon due proof of such notice being given, as aforesaid, and of the entering into such recognizance; which said justices shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they, the said justices, shall think proper, and the determination of such general or quarter sessions shall be final, binding, and conclusive, to all intents and purposes; and no conviction or order made concerning any matters aforesaid, or any other proceedings to be had touching the conviction or convictions of any offender or offenders against this act, shall be quashed for want of form, or be removed by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

32 Geo. 3, c. 56.
Appeal (a).

Want of form (b).
Certiorari.

Mr. *Christian* mentions a case tried at the sittings after *Trinity Term*, 1792, at Guildhall, against a person who had knowingly given a false character of a man to the plaintiff, who was thereby induced to take him into his service. But this servant soon afterwards robbed his master of property to a great amount, for which he was executed. And the plaintiff recovered damages against the defendant to the extent of his loss. This was an action of great importance to the public, and there can be no doubt but it was founded on strict principles of law and justice. (*Parley v. Freeman*, 1 *Bla. Com.* 432, *Christian's Edit.*)

Liability for giving false character.

In an action on the case, the declaration stated that the plaintiff's wife, having been retained by the defendant as a servant, was dismissed from the said service; that, after she was so dismissed, she had applied to a person of the name of *Stewart*, for the purpose of being retained and hired as a servant; that Mrs. *Stewart* was ready and willing to have hired and taken her into her service, if the defendant would have given her a character, and such character was satisfactory; that it was the duty of the defendant by law to have given her such character as she deserved; and then assigned a breach, that the defendant, not regarding such her duty, wholly refused to give her any character whatever; by reason whereof the said Mrs. *Stewart* refused to hire her into her said service. Plea of not guilty. On opening the pleadings, *Ld. Kenyon*, C. J., addressing himself to the plaintiff's counsel, said, "Can you make any thing of this action? I have read an abstract of the record; it is impossible to support this action." Upon the plaintiff's counsel replying, that he had no case, his lordship proceeded to observe, "There is no case; there is no foundation in law for this action. What one's real feeling would dictate, is one thing; but can you say that there is a legal obligation on one to give a servant a character at all? You are, indeed, to take care, if you do give a character, to give a true one; but you are not bound to give a character at all. I am confident that this action cannot be maintained." (*Carrol v. Bird*, *Sittings at Westm. after T. T.* 40 *Geo. III.*; 3 *Esp.* 201, S. C. And see *Ashover v. Brampton*, *Cald.* 11, ante; *Chit. Gen. Prac.* 78.)

Master not bound to give a character.

And when a master gives a bad character of a servant, the latter cannot maintain an action against the former, unless the account given be malicious as well as false. (*B. N. P.* 8.)

When liable to action for slander.

(a) See Vol. I., title "Appeal."

(b) As to this, see Vol. I., title "Conviction."

30. *Forms.*

Even though the master make specific charges of fraud. (*Weatherstone v. Hawkins*, 1 T. R. 110.)

In an action for libel, it appeared that the defendant, with whom the plaintiff had lived as servant, in answer to inquiries respecting her character, wrote a letter imputing misconduct to her whilst in that service, and after she left it; and the defendant also made similar parol statements to two persons that had recommended the plaintiff to her. Held that neither the letter itself nor the parol statements proved malice, and that consequently the letter was a privileged communication, and the plaintiff not entitled to recover. (*Child v. Affleck*, 4 Man. & Ry. 338; 9 B. & C. 403.)

In order to maintain an action against a master for giving a false character of a servant, extraordinary circumstances of *express malice* must be proved. (*Per* Ld. Mansfield, C. J., *Hargrave v. Le Breton*, 4 Burr. 2425.)

To prove such express malice, evidence that the character given is *false*, is admissible. (*Rogers v. Clifton*, 3 B. & P. 587; *King v. Waring*, 5 Esp. 13.)

A. having discharged his servant, and hearing that he was about to be engaged by B., wrote a letter to B., and informed him that he had discharged him for misconduct. B., in answer, desired further communication. A. then wrote a second letter to B., stating the grounds on which he had discharged the servant. In an action by the servant against A., for a libel contained in this letter, it was held, that, assuming the letter to be a privileged communication, it was properly left to the jury to consider whether the second letter was written by A. *bonâ fide*, acting under a belief that he was discharging a duty which he owed to the party who was about to take the plaintiff into his service, or with an intention to injure the servant. (*Pattison v. Jones*, 3 Man. & R. 101; 8 B. & C. 578.) *Et per* Bayley, J.:—"Generally speaking, any thing said or written by a master when he gives the character of a servant is a privileged communication. But if the supposed libel be not communicated *bonâ fide*, it does not fall within the protection which the law gives to a privileged communication." (And see *Kelly v. Partington*, 2 Nev. & M. 460; *Warr v. Solly*, 6 C. & P. 497.)

XXX. *Forms.*

FORM of CONVICTION under the 1 & 2 Wil. IV. c. 37, for paying wages of artificers in goods, and other offences against that act, (No. 1.)

SUMMONS to witness in such a case, (No. 2.)

WARRANT of Commitment of a Witness in same case, (No. 3.)

WARRANT to distrain for Forfeiture in same case, (No. 4.)

COMMITMENT for want of Distress in same case, (No. 5.)

CONVICTION under the 17 Geo. III. c. 56, s. 6, for buying Embezzled Silk, &c. (No. 6.)

CONVICTION on 17 Geo. III. c. 56, s. 10, 12, for having Purloined Woollen Materials, &c., in possession, without giving a good account thereof, (No. 7.)

The like, where the Justices appoint a time for Defendant to produce Persons to account for the Defendant's possession of the Materials in like stat. s. 12, (No. 8.)

INFORMATION on 22 Geo. II. c. 27, s. 7, against Workman, for not returning Materials not used, &c., (No. 9.)

INFORMATION on 20 Geo. II. c. 19, and 4 Geo. IV. c. 34, s. 5, of a Workman, to recover Wages, (No. 10.)—SUMMONS of a Master or Employer thereon, (No. 11.)—ORDER of Payment of Wages thereon, (No. 12.)—WARRANT of Distress thereon, (No. 13.)

INFORMATION on 20 Geo. II. c. 19, 6 Geo. III. c. 25, and 4 Geo. IV. c. 34, s. 3, of a Master against a Workman for Misbehaviour, (No. 14.)—WARRANT thereon, (No. 15.)—ORDER thereon, and COMMITMENT of Workman, abating his Wages during confinement, (No. 16.)—or ORDER thereon, abating his Wages instead of confinement, (No. 17.)—or ORDER thereon, discharging him, (No. 18.)

INFORMATION on 20 Geo. II. c. 19, s. 2, of Workman against Master for ill-Usage, (No. 19.)—SUMMONS of Master thereon, (No. 20.)—DISCHARGE of Workman thereon, (No. 21.)

INFORMATION on 20 Geo. II. c. 19, 6 Geo. III. c. 25, s. 4, and 4 Geo. IV. c. 34, s. 3, against a Workman absenting himself from his Service before Contract completed, (No. 22.)—WARRANT thereon, (No. 23.)—ORDER and COMMITMENT thereon, (No. 24.)—ORDER thereon, abating Wages only, or discharging Workman, (No. 25.)

INFORMATION on 4 Geo. IV. c. 34, s. 3, against Manufacturers, Labourers, or others, for not entering into Written Contract of Service, (No. 26.)

30. Forms.

ARBITRATIONS, &c., on 5 Geo. IV. c. 96,—Award to be Written at foot or back of Order of Justices certifying the Reference, (No. 27.)—INDORSEMENT of enlargement of Time for Award, (No. 28.)—ACKNOWLEDGMENT of Fulfilment of Award, to be written at foot or back thereof, (No. 29.)—OATH to be administered by Arbitrators or Justice to the Parties and Witnesses, (No. 30.)

COMMITMENT of a Witness, (No. 31.)—WARRANT of Distress, (No. 32.)—CONSTABLE'S return thereto, (No. 33.)—COMMITMENT thereon, (No. 34.)—COMMITMENT where Warrant of Distress withheld, (No. 35.)

CONVICTION and Commitment on 6 Geo. IV. c. 129, (No. 36.)

COMMITMENT under like statute of a Person summoned as a Witness, (No. 37.)

INFORMATION on 32 Geo. III. c. 56, s. 1, for personating a Master, and giving a false Character, (No. 38.)

INFORMATION on 32 Geo. III. c. 56, s. 2, for falsely asserting that a Servant was in a particular Service, (No. 39.)

INFORMATION on 32 Geo. III. c. 56, s. 3, for falsely asserting that the Servant was discharged at another time, or that he had not been hired in a previous Service, (No. 40.)

INFORMATION on 32 Geo. III. c. 56, s. 4, against a Servant offering himself with a false Certificate of Character, (No. 41.)

Be it remembered, that on this day of , in the year of our
to wit. } Lord , at in the county of , A. B. is duly convicted
before us, C. D. and J. G., two of his majesty's justices of the peace for the
of , for that the said A. B. [specify the offence, and the time and
place when and where committed,] whereby the said A. B. has forfeited the sum
of , this being adjudged to be the first [or second] offence [as the case may
be], against the provisions of an act to prohibit the payment of wages in goods,
besides the costs of this conviction, which we assess at the sum of [here
state to whom and in what proportions the penalty and costs are to be paid], pursuant
to the statute in that case provided.

Given under our hands and seals,

Whereas information upon oath hath been made before me, A. B., Esq.,
to wit. } one of his majesty's justices of the peace for the county aforesaid, that
C. D. of , has been guilty of an offence against the laws prohibiting the
payment of wages in goods, and that you are a material witness to be examined
on the hearing and determination of such information; these are therefore to
require you to appear personally before me, and such other justice or justices as
shall hear and determine such information, at , in the county aforesaid, on
the day of , at the hour of of the same day, there to be examined
touching the matters alleged in such information. As witness my hand,

To the Constable or other proper Officer, and to the Keeper or Gaoler
to wit. } of
Whereas C. D. hath been duly summoned to appear and give evidence before
us, A. O. and G. F., two of his majesty's justices of the peace for the county
[or riding, city, division, or place] of , on this day of , being
the time and place appointed for hearing and determining the complaint made on
the oath of , before us, against A. B., of having [stating the offence as laid
in the information], contrary to the laws now in force for prohibiting the payment
of wages in goods: and whereas the said C. D. hath not appeared before us at
the time and place aforesaid specified for that purpose, or offered any reasonable
excuse for his default, [or]: and whereas the said C. D., having appeared
before us at the time and place aforesaid specified for that purpose, hath not sub-
mitted to be examined as a witness and give his evidence before us touching the
matter of the said complaint, but hath refused so to do, [or]: therefore we
the said justices do hereby, in pursuance of the statute made, &c. [setting forth

(a) The act gives the form, see ante, 499.

30. Forms.

the title of this act], commit the said C. D. to the [describing the prison], there to remain without bail or mainprize, for his contempt aforesaid, for the space of three calendar months, or until he shall submit himself to be examined and give his evidence touching the matter of the said complaint, or shall otherwise be discharged by due course of law. And you [the constable or peace officer to whom the warrant is directed] are hereby authorized and required to take into your custody the body of the said C. D., and him safely to convey to the said prison, and him there to deliver to the gaoler or keeper thereof, who is hereby authorized and required to receive into his custody the body of the said C. D., and him safely to retain and keep, pursuant to this commitment. Given under our hands and seals, this day of , in the year of our lord

(4.) Warrant to distrain for forfeiture in same case (a).

to wit. } To the Constable, ["Headborough," or "Tithingman,"] of
Whereas A. B., of , is this day convicted before us, C. D. and J. G., two of his majesty's justices of the peace in and for the said county, upon oath of H. K., a credible witness, for that the said A. B. did [here set forth the offence], contrary to the statute in that case made and provided, by reason whereof the said A. B. hath forfeited the sum of , to be distributed as herein is mentioned, besides the sum of for costs, both of which he hath refused to pay; these are therefore, in his majesty's name, to command you to levy the said sum of , and also the sum of for costs, by distress of the goods and chattels of him the said A. B.; and if within the space of days next after such distress by you taken, the said sums, together with the reasonable charges of taking and keeping the same, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you do retain the said costs, and also the said forfeiture or sum of , and there-out pay to L. M., who hath informed and prosecuted in this case, the sum of , being his adjudged portion of such forfeiture, the residue whereof is to go to the treasurer of the said county of , in aid of the rates thereof; and that you do return the overplus, on demand, to him the said A. B. (the reasonable charges of taking, keeping, and selling the said distress being first deducted); and if sufficient distress cannot be found of the goods and chattels of the said A. B. whereon to levy the said sum of , that then you certify the same to us, together with this warrant.

Given under our hands and seals,

(5.) Commitment for want of distress in same case (a).

to wit. } To the [Constable] of , in the said County, and to the Keeper of
the Common Gaol, [or, the House of Correction,] at , in the
said county.

Whereas A. B. of , in the said county, was on the day of convicted before us, C. D. and J. G., two of his majesty's justices of the peace in and for the said county, upon the oath of H. K., a credible witness, for that he the said A. B. [here set forth the offence], contrary to the statute made in the year of the reign of his majesty king William the Fourth, by reason whereof the said A. B. hath forfeited the sum of , besides the sum of for costs: and whereas on the day of , in the year aforesaid, we did issue our warrant to the [constable] of , to levy the said sum of and costs, by distress and sale of the goods and chattels of him the said A. B., and to distribute the same according to the directions of the said statute: and whereas it duly appears to us, upon the oath of the said [constable], that the said [constable] hath used his best endeavours to levy the said sum on the goods and chattels of the said A. B. as aforesaid, but that no sufficient distress can be had whereon to levy the same [or, by confession of the said A. B., or, by the oath of a credible witness, that the said A. B. hath not goods and chattels within our jurisdiction whereon to levy the said forfeiture and costs]; these are therefore to command you, the said [constable] of aforesaid, to apprehend the said A. B., and him safely to convey to the common gaol [or, house of correction] at , in the said county, and there to deliver him to the keeper thereof, together with this precept. And we do also command you the said keeper to receive and keep in

(a) The act gives the form, see ante, 498.

your custody the said A. B. for the space of three months, unless the said sum and costs shall be sooner paid; and for so doing this shall be your sufficient warrant. Given under our hands and seals, 30. Forms.

County of } Be it remembered, that on the day of , A.D. ,
 } at , J. B., of the parish of , in the county of ,
 was convicted before us, W. G. and R. G., Esqs., two of his majesty's justices of the peace for the said county of , for that the said J. B., on the day of , in the year aforesaid, at the parish aforesaid, in the said county of , unlawfully did buy and receive, and take by way of sale, a certain quantity of silk, to wit, one bobbin of silk, the property of W. T., and of the value of 5l., of and from one M. D., who was then and there hired and employed by the said W. T., to prepare and work up for him the said silk, the said J. B. then and there well knowing the said M. D. to be so hired and employed as aforesaid, and the said J. B. not then having first obtained the consent of the said W. T. in that behalf, and the said W. T. not having at any time given his consent to the said J. B.'s so buying, receiving, or taking the said silk, or any part thereof, contrary to the form of the statute in such case made and provided. And we, the said justices, do adjudge, that the said J. B., for his said offence, being his first offence, hath forfeited the sum of twenty pounds, to be applied as the law directs, and in default of payment of the same, we, the said justices, do further adjudge that the said J. B. be committed to the house of correction, to be kept to hard labour for the space of three months, unless the penalty shall be sooner paid (b).

(6.) Conviction under the 17 Geo. 3, c. 56, s. 6, for buying embezzled silk, &c. (a).

Given under our hands and seals the day and year first above written.

Be it remembered, that on the day of , in the year of our [to wit. } Lord one thousand eight hundred and , C. D., of , in the said county, [labourer], is convicted before us, J. P. and L. M., two of his majesty's justices of the peace in and for the said county; for that, on the day of , in the year aforesaid, at, &c., T. Y. and M. N., Esqs., two of his majesty's justices of the peace in and for the said county, upon complaint made to them upon oath by one I. J., being a credible person, that there was cause to suspect that certain purloined and embezzled materials of [wool, &c.], were concealed in the [dwelling-house] (d) of the said C. D. aforesaid, by virtue of a warrant under their hands and seals, pursuant to the statute in such case made and provided, did cause the said [dwelling-house] to be searched in the day-time; and that, upon such search, under the said warrant, certain materials, used in the manufacture of [wool], to wit, [10lbs. weight of cotton wool], suspected to be purloined and embezzled, were found in the same [dwelling-house]; and the said materials so found as aforesaid, and the said C. D., were thereupon, to wit, on the said day of , brought before us, the said J. P. and L. M.; and the said C. D. being so brought before us, the said last-mentioned justices, did not then, or at any other time, give any account, to the satisfaction of us, the said justices, how he came by the said materials, contrary to the statute in that case made and provided; whereby the said C. D. hath forfeited the sum of 20l., being his first offence; one moiety thereof is to be paid to the said I. J., being the informer in this behalf, and we adjudge the other moiety thereof to be paid to the churchwardens and overseers of the poor of the said parish of , for the use of the poor of the said parish (e).

(7.) Conviction on 17 Geo. 3, c. 56, s. 10, for having purloined woollen, &c., materials in possession, without giving good account thereof (c).

[Proceed as in the preceding form to the *, and then thus]. Did request of us to appoint a reasonable time to produce one E. F., whom he alleged to be the person

(8.) The like where the justices appoint a time for defendant to produce persons to account for the defendant's possession of the materials in like stat. s. 12 (f).

(a) See ante, 512. The act prescribes the greater part of this form, see ante, 521.

(b) See ante, 520.

(c) See ante, p. 517. The twenty-first section gives the formal parts of the conviction, ante, p. 521.

(d) See the words of the act, ante, p. 517.

(e) See the 58 Geo. III. c. 51, ante, p. 509.

(f) See the act, ante, p. 518. It is, it seems, imperative on the justices to allow this when properly requested, and on the parties entering into recognizances, &c., as directed ante, p. 518.

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duly entitled to sell and dispose of the said materials, of and from whom he bought and received the same, and also one G. H., a credible witness, to prove the sale and delivery thereof; and we did therefore appoint the said day of , being a reasonable time, for the purpose aforesaid; and we did issue our summons to the constable of the [parish] of , in the said county, where the said E. F. and G. H. did reside, to appear before us, on the said day of , to be examined and give evidence on oath as to the matter aforesaid; on which said day of , the said E. F. and G. H. did appear before us, and, being sworn and examined, did severally depose, that they had not any knowledge of the said materials so found in the said [dwelling-house] of the said C. D., as aforesaid; and the said C. D. did not give any account, to the satisfaction of us, the said justices, how he came by the said materials, contrary to the statute in that case made and provided; whereby, &c. [conclude as in preceding form.]

(9.) Information on 22 Geo. 2, c. 27, s. 1, against workman, for not returning materials not used (a).

State the offence thus: That C. D., late of, &c., on, &c., at, &c., being a person then and there hired and employed to prepare and work up [silk] for one N. O. [as the case may be, see the words of the act, ante, p. 509]; and, being then and there entrusted by the said N. O. with divers materials, to wit, &c. [here state them], in order to prepare, work up, and manufacture the same; and, not having then and there used all the said materials in the preparing, working up, and manufacturing the same, did then and there neglect and delay, for the space of [eight] days after the said materials were so prepared, worked up, and manufactured, as aforesaid, to return to the said N. O. so much of the said materials as were not so used, as aforesaid, although oftentimes required by the said N. O. so to do, contrary to the form of the statute in such case made and provided. Whereby, &c.

A conviction for this offence may be readily framed from this form.

(10.) Information of a workman, &c., for wages, on 20 Geo. 2, c. 19, and 4 Geo. 4, c. 34, s. 5 (b).

The information and complaint of A. S., late of , in the county to wit, } aforesaid, husbandman [as the case may be; see the words of the statute, ante, 531, &c.], exhibited before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, the day of , in the year ; who, on his oath, saith,

That at Whitsuntide last [or on, &c., the real time], he was hired and employed by A. M., (c) of , aforesaid, in the county aforesaid [farmer], to be his servant in husbandry [or, artificer, handicraftsman, miner, &c., as the case may be] (d), for a certain term, to wit, the term of one half-year then next following [as the case shall be], for the wages of ; that he, the said A. S., hath duly performed the said service (e); and that he, the said A. M. refuseth to pay to him the said A. S., the wages justly due unto him for the said service; and thereupon he, the said A. S., prayeth that justice may be done, and that the said A. M. may be summoned before me, the justice aforesaid, to answer unto the said complaint.

Before me, J. P.

A. S.

(11.) Summons of master or employer, &c. thereon.

County of } To the Constable of , in the said county.

Whereas information and complaint hath been made unto me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, upon the oath of A. S., late of , in the said county, husbandman [&c., as the case may be];

(a) Ante, p. 509.

(b) Ante, p. 531. To give the justice jurisdiction, the wages in question must not exceed 10*l.* with regard to any servant, nor 5*l.* with regard to any artificer, &c.; see ante, p. 532.

(c) As to who is the employer, see ante, p. 540.

(d) As to who is a servant within the acts, see ante, 537.

(e) As to when the wages are due, see ante, 491, 492. It should seem, that wages are sometimes due without actual service; as where the labourer has been always ready to complete the service, and the master has improperly dismissed him. In such a case, the above information should be different. See ante, p. 531, 532.

see the words of the statute, *ante*, p. 531, &c.], *that at Whitsuntide, &c.* [here set out the complaint as stated in the information, as in Form No. 1, as the case may be, down to the *]. *These are therefore to command you forthwith to summon the said A. M. to appear before me at* , *in the said county, on* , *the day of this present month of* , *at the hour of* , *in the [after-noon] of the same day, to show cause why the said wages should not be paid. And be you then there to certify what you shall have done in the premises. Given under my hand and seal, the* day of , *in the* year of the reign of

County of } *Whereas information and complaint hath been made unto me,* (12.) Order for
 } *J. P., Esq., one of his majesty's justices of the peace in and* payment of wages
for the said county, upon the oath of A. S., late of , *in the said county,* thereon (a).
husbandman [&c. as the case may be], that at Whitsuntide last, &c. [see the
information, and state the complaint as therein stated.] And whereas the said
A. M. having appeared before me, in pursuance of my summons for that pur-
pose, hath not proved to me that the wages have been duly paid unto the said
A. S., nor hath showed to me any just cause why the said wages should not be
paid, and hath not paid the same, and the said wages are justly due unto the
said A. S., as aforesaid; [or, and whereas it appears to me, on the oath of A. C.,
constable of , *aforesaid, that he, the said A. C., by virtue of my precept to*
him directed, did duly summon the said A. M. to appear before me at a certain
time and place therein prefixed, to show cause why the said wages should not be
paid, and the said A. M. hath neglected to appear according to the said sum-
mons, and hath not showed any cause why the said wages should not be paid,
and hath not paid the same]; I, therefore, having duly examined into and con-
sidered the truth and matter of the said complaint, on the oath of the said A. S.
[or, on the oaths of the said A. S., and of G. H. and I. J., witnesses produced
by him, the said A. S.,] do hereby adjudge, determine, and order, that he, the
said A. M., upon due notice hereof [or, upon the day of , *instant or*
next], do pay, or cause to be paid, to him the said A. S., the sum of ,
which appears to me to be justly and reasonably due from the said A. M. to the
said A. S., as and for his wages, as aforesaid. Given under my hand and seal,
the day of , *in the year of our Lord one thousand eight hundred*
and

J. P. (L. S.)

County of } *To the Constable of* , *in the said county.*

(13.) Warrant of distress for same

Whereas A. S., late of , *in the said county, husbandman [as the case* (b).
may be, as in the information], hath complained unto me, J. P., Esq., one of his
majesty's justices of the peace in and for the said county, that A. M., of ,
in the said county [farmer], hath refused to pay unto him, the said A. S., the
wages justly due unto him for service in [husbandry, or as the case may be], duly
performed by him, the said A. S., for the said A. M. And whereas the said
A. M. having appeared before me, in pursuance of my summons for that pur-
pose, hath not proved to me that the said wages have been paid to him, the said
A. S., nor hath shown any just cause why the same should not be paid, and hath
not paid the same, and the said wages are justly and reasonably due unto the
said A. S., as aforesaid, [or, and whereas the said A. M. hath been duly sum-
moned by me to show cause why the said wages should not be paid, but he, the
said A. M., hath neglected to appear according to the said summons, and hath
not shown any cause why the said wages should not be paid, and hath not paid
the same]; I, therefore, the said justice, upon due examination and considera-
tion had thereof, on the day of , *now last past, by writing under my*
hand and seal, did thereupon adjudge, determine, and order that he, the said
A. M., should pay, or cause to be paid, to him the said A. S., upon due notice
thereof, [or, upon the day of , *instant, or next], the sum of* , *which*
appeared to me to be justly and reasonably due from the said A. M. to him, the
said A. S., as and for his wages, as aforesaid. And whereas it appears to me that
the said A. M., on the said day of , *now last past, had due notice of*

(a) *Ante*, 531, 532.

&c. See "Warrant of Distress,"

(b) See the enactments, *ante*, 532, Vol. I.

30. Forms.

my said order, and that due demand of the said sum of was then [or, was on the day of instant or last] made of him, the said A. M., by him the said A. S., but that he, the said A. M., did not then pay, nor hath yet paid, the same, nor any part thereof.—These are therefore to command you to make distress of the goods and chattels of him, the said A. M.; and if, within the space of [four] days next after such distress by you made, the said sum of , together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and, out of the money arising by the sale thereof, that you do pay the said sum of unto him the said A. S., returning the overplus upon demand unto him the said A. M., the reasonable charges of taking, keeping, and selling the said distress being thereout first deducted. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and J. P. (L. S.)

(14.) Information of a master against a workman for misbehaviour, on 20 Geo. 2, c. 19, 6 Geo. 3, c. 25, and 4 Geo. 4, c. 34, s. 3, after entering into service (a).

County of } Be it remembered, that on this day of , in the year , P. R., of , in the county aforesaid, farmer, [or, steward, &c. of the said P. R.—see, ante, p. 536, as the case may be], complaineth and maketh oath before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that P. S., late of , aforesaid, in the county aforesaid, servant in husbandry [or, as the case may be], did, on the day of , in the year of our Lord , at , in the county aforesaid, contract with the said P. R., to serve him, the said P. R., as a servant in husbandry, [or, as the case may be], for [here state the time of contract], and did then and there enter into such service, and that the said P. S. afterwards, and whilst he was in the said service, to wit, on the day of , in the year of our Lord , and on other days and times afterwards, was in the execution of the said contract, and otherwise respecting the same, guilty of divers misdemeanors, miscarriages, misconduct, and ill-behaviour, in this, to wit, that he, the said P. S. [here set forth the offence]; * and thereupon he, the said P. R., prayeth that justice may be done, &c. [as in Form, No. 10].
P. R.
Before me, J. P.

(15.) Warrant against a workman thereon.

County of } To the Constable of .
Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of , in the said county, farmer, [as the case shall be,] upon the oath of the said P. R., against P. S., late of , aforesaid, in the county aforesaid, servant in husbandry [as the case shall be], &c., [here set forth the complaint, as in the preceding information, to the *]. These are therefore to command you forthwith to bring the said P. S. before me to answer unto the said complaint, and to be further dealt with according to law. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and and

(16.) Order and commitment thereon, and abatement of wages during confinement (b).

County of } To the Constable of , in the said County, and to the Keeper of the [House of Correction] at , in the said County.
Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of , in the said county, husbandman, [or, by P. T., the steward, &c., of the said P. R., as the case shall be], upon the oath of the said P. R. [or, of the said P. T.], against P. S., late of , aforesaid, in the county aforesaid, servant in husbandry [as the case shall be], to the said P. R., that, &c. [here set forth the complaint as stated in the information No. 13, supra]. And whereas the said P. S., in pursuance of my summons [or, warrant, as the case is], for that purpose hath appeared before me to answer the said complaint, but hath not proved that he is not guilty of the said complaint and charge, [or, if the defendant did not appear, see the Form, No. 21, post]. And whereas, in pursuance of the statutes in that

(a) See the enactments, ante, 531, 535. ment must not be for more than three months.
See the forms, post, Nos. 20, 25.

(b) Ante, p. 531, 536. The commit-

case made and provided, I have duly examined the proofs and allegations of both the said parties, touching the matter of the said complaint, and, upon due consideration had thereof, have adjudged and determined that he, the said P. S., did contract as aforesaid, and hath in his said service and employment been guilty of divers misdemeanors, miscarriage, misconduct, and ill-behaviour, towards the said P. R., in that he, the said P. S., [here set forth the particular offence]; and I do therefore convict him, the said P. S., of the said offence, in pursuance of the statutes in that case made and provided*. These are therefore to command you, the said constable, forthwith to convey the said P. S. to the said house of correction at , aforesaid, and to deliver him to the keeper thereof, together with this warrant; and I do hereby command you, the said keeper, to receive the said P. S. into your custody in the said house of correction, there to remain and be held to hard labour for the space of [the time not to exceed three months] from the date hereof. And I do also order that the said P. S. shall abate from his wages, to be paid him by the said P. R., the sum of , for the said period of , during which he, the said P. S., shall be so confined in the said house of correction; and I do hereby discharge the said P. R. from the payment of the said sum of , as part of the wages of him, the said P. S. And for your so doing, this shall be your sufficient warrant. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

J. P. (L. s.)

[Proceed as in the preceding Form from the word "whereas," to the *, omitting the direction to the constable, and then thus.] I do therefore hereby order, as a punishment for the said offence [or, offences], that the said P. S. shall abate the sum of , the whole of the wages due to him, the said P. S., for his said services [or, shall abate from his wages, due to the said P. S., for his said services, to be paid to him by the said P. R., the sum of , part thereof]; and do hereby discharge the said P. R. from the payment of the said sum of , the whole [or, part] of the wages of him, the said P. S., for his said services. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

(17.) Order thereon abating wages instead of committing servant (a).

J. P. (L. s.)

[Proceed as directed in the preceding Form, and then thus.] I do therefore hereby order, as a punishment for the said offence [or, offences], that the said P. S. be discharged, and do hereby discharge him, the said P. S., from his said contract, service, and employment, and the said P. R. from keeping him the said P. S. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

(18.) Order thereon discharging the servant instead of any other punishment.

J. P. (L. s.)

County of } Be it remembered, that on this day of , in the year , P. S., of , in the county aforesaid, husbandman, &c. [as the case may be, see the act, ante, p. 532], complaineth and maketh oath before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that at Michaelmas last [the real time] he, the said P. S., was hired and employed by P. R., of aforesaid, in the county aforesaid, farmer [as the case may be], to be servant in husbandry, &c. [as the case may be] to him, the said P. R., for the space of , [as the case may be]; and that he, the said P. S., did accordingly, at Michaelmas last [the real time], as aforesaid, enter upon, and afterwards until this present time hath continued and doth continue in, the said service and employment; and that he, the said P. R., during the said service and employment, hath misused him, the said P. S., and particularly [here set forth the special offences]. And thereupon the said P. S. prayeth that justice may be done in the premises, &c. [as in No. 10, ante, 572].

(19.) Information of a workman against master, for ill-usage, on 20 Geo. 2, c. 19, s. 2(b).

Before me, J. P.

P. S.

(a) See the act, ante, 536. The defendant may be punished in either of these three modes. (b) See the enactment, ante, p. 531.

6. Forms.

County of }

To the Constable of

(20.) Summons of master thereon.

Whereas complaint has been made unto me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, upon the oath of P. S., of , in the said county, husbandman [or, labourer, &c., as the case may be], that at Michaelmas last [the real time] he, the said P. S., was hired and employed by P. R., of aforesaid, in the said county, farmer, [as the case may be], to be servant in husbandry, &c. [as the case may be], to him, the said P. R., for the space of , [or as the case shall be]; and that he, the said P. S., did accordingly, at Michaelmas last [the real time], as aforesaid, enter upon, and afterwards until this present time hath continued and doth continue in, the said service and employment; and that he, the said P. R., during the said service and employment, hath misused him, the said P. S., and particularly [here set forth the offences]*. These are therefore to require you, in his majesty's name, to summon the said P. R. to appear before me, on next, at the house of , in , in the said county, at the hour of in the afternoon of the same day, to answer unto the said complaint. And be you then there to certify what you shall have done in the execution thereof. Given under my hand and seal, the day of , in the year .

(21.) Order of discharge of workman thereon.

[Proceed as in preceding form, beginning at the word "whereas," and ending at the *, and then thus.] And whereas the said P. R., in pursuance of my summons for that purpose, hath appeared before me, to answer unto the said complaint, but hath not proved that he is not guilty of the said complaint and charge, and, on the contrary, it hath been fully and duly proved before me upon the oath of the said P. S., [and also on the oath of C. D., &c., as the case may be], to my satisfaction, that he, the said P. R., hath misused him, the said P. S., in his service and employment, as aforesaid, and particularly [here set forth the special offence or offences]; [or, and whereas it appears to me, upon the oath of P. T., constable of aforesaid, that he, the said P. T., by virtue of my precept to him directed, did duly summon him, the said P. R., to appear before me at a reasonable time therein prefixed, to answer unto the said complaint, and he, the said P. R., hath neglected to appear according to the said summons; and whereas it hath been fully and duly proved before me upon oath, to my satisfaction, that he, the said P. R., hath misused him, the said P. S., in his service and employment, as aforesaid, and particularly [here set forth the particular offence or offences]: I do therefore hereby order, in pursuance of the statute in that case made and provided, that he, the said P. S., be discharged, and do hereby discharge him, the said P. S., of and from his said service and employment. Given under my hand and seal, the day of , in the year .

(22.) Information on 20 Geo. 2, c. 19, s. 2, 6 Geo. 3, c. 25, s. 4, 4 Geo. 4, c. 34, s. 3, against a workman absenting himself from service before contract completed (a).

County of } Be it remembered, that on this day of , in the year , P. R., of , in the county aforesaid, farmer [or, steward, &c., as the case may be], complaineth and maketh oath before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that D. E., late of aforesaid, in the said county, servant in husbandry, &c. [as the case may be], did on, &c., at &c., contract with the said P. R. to serve the said P. R. as a servant in husbandry, &c. [as the case may be], for [here state the time of the contract], and did then and there enter into such service; and that afterwards and before the term of the said contract was completed, to wit, on, &c., and on divers days and times afterwards, that is to say, for the space of days, absented himself from his said service, contrary to his said contract;* and thereupon he, the said P. R., prayeth that justice may be done, &c. [as in No. 10.]
Before me, J. P. P. R.

(23.) Warrant thereon.

County of }

To , the Constable of , in the said county.

Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of , in the said county, farmer, &c. [or, steward, &c., as the case may be],

(a) See the enactments, ante, p. 531, 535.

upon the oath of the said P. R., that D. E., late of *aforesaid*, in the said *30. Forms.*
 county, servant in husbandry, &c., [here proceed as in the preceding information to
 the *, and then thus]. *These are therefore to command you to bring the said*
D. E. before me, to answer unto the said complaint, and to be further dealt with
according to law. Given under my hand and seal, the day of *, in the*
year of our Lord one thousand eight hundred and

County of } To *, the Constable of* *, in the said County, and to the* (24.) Order and
 { *Keeper of the House of Correction at* *, in the said County.* commitment
 thereon.

Whereas information and complaint hath been made before me, J. P., Esq.,
 one of his majesty's justices of the peace in and for the said county, by P. R.,
 of *, in the said county, farmer, &c., [as the case may be], upon the oath of*
the said P. R., that D. E., late of *aforesaid, in the said county, servant*
in husbandry, &c. [as the case may be], did, on, &c., at, &c., contract with the said
P. R. to serve the said P. R. for, &c. [here proceed to state the complaint as in
*the information No. 22 to the *, and then thus]. And whereas the said D. E., in*
pursuance of my summons [or, "warrant," as the case may be], for that purpose
hath appeared before me, to answer the said complaint, but hath not proved that
he is not guilty of the said complaint and charge [or, if the defendant did not
appear, see the form No. 21]; and whereas, in pursuance of the statutes in that
case made and provided, I have duly examined the proofs and allegations of both
the said parties, touching the matter of the said complaint, and, upon due consi-
deration had thereof, have adjudged and determined that he, the said D. E., did
contract with the said P. R. to serve him, the said P. R., as aforesaid, and did
afterwards absent himself from the said service before the term of his said con-
tract was completed, as aforesaid; and I do therefore convict him, the said
D. E., of the said offence, in pursuance of the statutes in that case made and
provided. These are therefore to command you, the said constable, forthwith to
convey the said D. E. to the said house of correction at *aforesaid, and to*
deliver him to the keeper thereof, together with this warrant; and I do hereby
command you, the said keeper, to receive the said D. E. into your custody in the
said house of correction, and him there safely keep for the space of [not
 exceeding three months, nor less than one month], *from the date hereof; * and I*
do also order that the said P. R. shall abate, &c. [here proceed to order an abate-
ment of the wages as in form No. 18]; and, for your so doing, this shall be your
sufficient warrant. Given under my hand and seal, the day of *, in*
the year of our Lord one thousand eight hundred and

If the justice, instead of committing the offender to prison, abate the wages only, (25.) Order
 proceed as in the preceding form, from the word "*whereas*" to the *, and then pro- abating wages
 ceed as in form (No. 17,) to the end. only, or dis-

If the justice, instead of committing the servant or abating his wages, only discharge- charging de-
 him, then proceed as in the preceding form, from the word "*whereas*" to the *, and fendant.
 then proceed as in form (No. 18,) to the end.

{ *Be it remembered, that on, &c., at, &c., N. O., of, &c., personally cometh* (26.) Information,
 to wit. } *before me, J. P., one of his majesty's justices of the peace in and for* on 4 Geo. 4, c. 34,
the said county, and, upon his oath, complaineth to and informeth me, that C. D., s. 3, against la-
being a servant in husbandry, &c. [as the case may be], did, on, &c., at, &c., con- bourers or others
tract with the said N. O. to serve him, the said N. O. [state the terms of the con- for not entering
tract shortly]; and that the said C. D. did not afterwards enter into or commence into service ac-
his said service according to his contract aforesaid (the said contract being in cording to written
writing, and signed by the contracting parties aforesaid); and did then and contract (a).
there neglect to fulfil his contract aforesaid, contrary to the form of the statute
in such case made and provided. Whereby, &c. [Conclude as usual.]

Taken and sworn before me, the day }
 of *, 18* . J. P. { N. O.

An order may be readily framed from this, and a warrant or commitment may be
 framed from the forms of warrant or commitment, ante, Nos. 23, 24.

(a) See ante, p. 535. See a form in Mann. & Ryl. Mag. Ca. 302; 4 Mann.
 Hardy v. Ryle, 9 B. & C. 603; 2 & Ryl. 296, held bad.

30. Forms.

(27.) Award to be written at foot or back of order of justices, certifying the reference, under 5 Geo. 4, c. 96, ss. 22, 25 (a).

We, I. K. and L. M. [name and describe the referees], the referees appointed to settle the matters in dispute between the parties within named [or, I. K., one of the referees so appointed, or, L. M., the other referee appointed, having failed to attend, or, I. N. O., the justice, as the case may be], do hereby adjudge and determine that [here set forth the determination; to which the referee or referees, or justice, as the case may be, shall subscribe their names.]

(28.) Indorsement extending time limited for making award, under 5 Geo. 4, c. 96, s. 21.

We, L. M. and N. O., parties to the within reference, do hereby agree to extend the same to the day of inclusive. Witness our hands, this

Witness,

*L. M.
N. O.*

(29.) Acknowledgment of fulfilment of award to be written at foot or on back thereof, under 5 Geo. 4, c. 96, s. 23.

I, L. M., do hereby acknowledge that the above award hath been fulfilled by N. O., who is hereby discharged of the same. Witness my hand, this

Witness,

L. M.

(30.) Oath to be administered by the arbitrators or justice to the parties and witnesses, under 5 Geo. 4, c. 96, s. 8 (b).

The evidence that you shall give before us, the arbitrators appointed by L. M. and N. O. [the parties], to determine the matters in difference between them, under and by virtue of an act passed in the fifth year of the reign of king George the Fourth, intituled "An Act" [state the title of this act, ante, 544], shall be the truth, the whole truth, and nothing but the truth. So help you God.

(31.) Commitment of a witness, on 5 Geo. 4, c. 96, ss. 9, 27 (c).

Whereas proof on oath hath been made before me, one of his majesty's justices of the peace for the county [or, riding, stewartry, division, city, burgh, liberty, town, or place] of , on this day of , that N. O. hath been duly summoned, and hath neglected to appear and give evidence before C. D. and E. F., the arbitrators appointed by and between G. H. and I. K., to determine the matters in dispute between them at , in the county [or, riding, stewartry, division, city, burgh, liberty, town, or place] of , on the day of , under and by virtue of an act made in the fifth year of the reign of his late majesty, king George the Fourth, intituled "An Act" [here set forth the title of this act, ante, 544]; and the said N. O. being required by me, the said justice, to give evidence before the said arbitrators, and still refusing so to do, therefore I, the said justice, do hereby, in pursuance of the said act, commit the said N. O. to the [describing the prison and the house of correction], there to remain without bail or mainprize for his [or, her] offence aforesaid, until he [or, she] shall submit himself [or, herself] to be examined, and give his [or, her] evidence before the said arbitrators, touching the matters referred to them, as aforesaid, or shall otherwise be discharged by due course of law. And you, the [constable, or other peace officer, or officers, to whom the warrant is directed], are hereby authorized and required to take into your custody the body of the said N. O., and him [or, her] safely to convey to the said prison [or, house of correction], and him [or, her] there to deliver to the gaoler [or, keeper] thereof, who is hereby authorized and required to receive into his custody the body of the said N. O., and him [or, her] safely to detain and keep, pursuant to this commitment. Given under my hand, this day of , in the year of our Lord .

[This commitment to be directed to the proper peace-officer, and the gaoler or keeper of the prison or house of correction.]

(32.) Warrant of distress, under 5 Geo. 4, c. 96, s. 24 (d).

*To the Constable of .
Whereas , of , under an award made by , on the day of , in the year of our lord , pursuant to an act passed in the fifth year of the reign of his late majesty, king George the Fourth, intituled "An*

(a) *Ante*, p. 549. The stat. gives this and the next forms.

(b) *Ante*, p. 547.

(c) *Ante*, p. 547, 550. The act gives this form.

(d) *Ante*, p. 550. The act gives this form.

Act" [state the title of this act, ante, 544], is liable to pay to _____, of _____, 30. Forms.
 the sum of _____, and also the sum of _____; and the said _____ having refused
 or neglected to pay the same for the space of two days and upwards subsequent
 to the making such award, these are therefore to command you to levy the said
 sum of _____ by distress and sale of the goods and chattels of the said _____; and
 I do hereby order and direct the goods and chattels so to be distrained to be sold
 and disposed of within _____ days, unless the said sum of _____, for which
 such distress shall be made, together with the reasonable charges of taking and
 keeping such distress, shall be sooner paid; and you are also hereby commanded
 to certify to me what you shall do by virtue of this my warrant. Given under my
 hand and seal, at _____, the _____ day of _____.

I, _____, constable of _____, do hereby certify to _____, justice of the peace (33.) Constable's
 for _____, that I have made diligent search for, but do not know of, nor can find return to warrant
 any goods and chattels of _____, by distress and sale whereof I may levy the sum of _____ of distress, on
 of _____, pursuant to his warrant for that purpose. Dated the _____ day of _____ 5 Geo. 4, c. 96,
 _____, in the year of our Lord _____. Given under my hand, this _____ day of _____ s. 24 (a).
 _____, in the year of our Lord _____.

County of } To the Constable of _____, and also to the Keeper of the House of _____ (34.) Commitment
 } Correction at _____ thereupon to

Whereas _____, of _____, under an award made by _____, on the _____ day
 of _____, in the year of our lord _____, pursuant to an act passed in the fifth
 year of the reign of his late majesty, king George the Fourth, intituled "An
 Act" [state the title of this act, ante, 544], became liable to pay to _____ the sum
 of _____, and also the sum of _____, for costs, time, and expenses, making toge-
 ther the sum of _____; and, having refused or neglected to pay the same for
 the space of [two days and upwards] subsequent to the making of such award,
 my warrant was, according to the provisions of the said act, duly made and
 issued for the levying the said sum of _____ by distress and sale of the goods
 and chattels of the said _____. And whereas it appears by the return of
 _____, constable of _____, dated the _____ day of _____, that he hath made
 diligent search for, but doth not know of, nor can find any goods and chattels of
 the said _____, by distress and sale whereof the said sum of _____ may be levied,
 pursuant to my said warrant: these are therefore to command you, the said
 constable of _____, to apprehend the said _____, and convey him to the said
 house of correction at _____ aforesaid, and deliver him there to the keeper of
 the said house of correction; and these are also to command you, the keeper of
 the said house of correction, to receive him, the said _____, into the said house
 of correction, and there keep him without bail or mainprize for the space of
 _____ months, unless the said sum of _____, so ordered to be paid, as afore-
 said, shall be sooner satisfied, with all reasonable expenses. Given under my
 hand and seal, at _____, the _____ day of _____, in the year of our Lord _____.

County of } To the Constable of _____, and also to the Keeper of the House of _____ (35.) Commitment
 } Correction at _____ where warrant

Whereas _____, of _____, under an award made by _____, on the _____ day
 of _____, in the year of our Lord _____, pursuant to an act passed in the _____ year of the reign of his late majesty, king George the Fourth, intituled
 "An Act" [state the title of this act, ante, 550], became liable to pay to _____ the sum of _____, and also the sum of _____, for costs, time, and expenses,
 making together the sum of _____, which he has refused or neglected to pay
 for the space of [two days and upwards] subsequent to the making of such
 award; and whereas it appears to me, that the recovery of such sum and war-
 rant of distress and sale of the goods and chattels of the said _____ will be
 attended with consequences ruinous, or in an especial manner injurious, to the
 defaulter ["and his family," if any]; and I have, therefore, determined to
 withhold such warrant, and to commit the said _____ to prison, pursuant to
 the said act. These are therefore to command you, the said constable of _____,
 to apprehend the said _____, and convey him to the said house of correction at
 _____, aforesaid, and deliver him there to the keeper of the said house of

(a) Ante, p. 550.

(b) Ante, p. 550. The act gives this form.

30. *Forms.* correction; and these are also to command you, the keeper of the said house of correction, to receive him, the said , into the said house of correction, and there keep him without bail or mainprize for the space of months, unless the said sum of , so ordered to be paid, as aforesaid, shall be sooner satisfied, with all reasonable expenses. Given under my hand and seal, at , the day of .

(36.) Conviction
on 6 Geo. 4, c. 129
(a).

Be it remembered, that on the day of , in the year of his majesty's reign, and in the year of our Lord , A. B. is convicted before us [naming the justices], two of his majesty's justices of the peace for the county [or, riding, division, city, liberty, town, or place] of , of having [stating the offence], contrary to the act made in the sixth year of the reign of king George the Fourth, intituled "An Act" [here set forth the title of this act, ante, 551]; and we, the said justices, do hereby order and adjudge the said A. B., for the said offence, to be committed to and confined in the common gaol for the said county [or, "riding, division, city, liberty, town, or place"], for the space of , [or, "to be committed to the house of correction at , within the said county, or, "riding," division, city, liberty, town, or place"], [there to be kept to hard labour for the space of .] Given under our hands, the day and year above written.

(37.) Commitment
on like act (b).

Whereas C. D. hath been duly summoned to appear and give evidence before us [naming the justices who issued the summons], two of his majesty's justices of the peace for the county [or, "riding, division, city, liberty, town, or place"] of , on this day of , at , being the time and place appointed for hearing and determining the complaint made by , [the informer or prosecutor], before us, against A. B., of having [stating the offence as laid in the information], contrary to the act made in the sixth year of the reign of king George the Fourth, intituled "An Act" [here insert the title of this act, ante, 551]; and whereas the said C. D. hath not appeared before us at the time and place aforesaid, specified for that purpose, or offered any reasonable excuse for his [or, her] default [or, and whereas the said C. D. having appeared before us at the time and place aforesaid, specified for that purpose, hath not submitted to be examined as a witness, and give his [or, her] evidence before us, touching the matter of the said complaint, but hath refused so to do]; therefore we, the said justices, do hereby, in pursuance of the said statute, commit the said C. D. to the [describing the prison], there to remain without bail or mainprize, for his [or, her] contempt aforesaid, for three calendar months, or until he [or, she] shall submit himself [or, herself] to be examined, and give his [or, her] evidence before us, touching the matter of the said complaint, or shall otherwise be discharged by due course of law. And you, the , [constable, or other peace officer or officers to whom the warrant is directed], are hereby authorized and required to take into your custody the body of the said C. D., and him [or, her] safely to convey to the said prison, and him [or, her] there to deliver to the gaoler or keeper thereof, who is hereby authorized and required to receive into his custody the body of the said C. D., and him [or, her] safely to detain and keep, pursuant to this commitment. Given under our hands, this day of , in the year of our Lord .

[This commitment to be directed to the proper peace-officer, and the gaoler or keeper of the prison.]

(38.) Information
for personating
master, and giving
false character of
a servant, on
32 Geo. 3, c. 56,
s. 1 (c).

Be it remembered, that on the day of , in the year of our Lord , at, &c., N. O., of, &c., a credible witness in this behalf, personally cometh before us, J. P. and K. L., two of his majesty's justices of the peace in and for the said [county], and on his oath informeth us, that heretofore, to wit, on, &c., at, &c., one E. F. having offered himself to be hired as a servant into the service of the said N. O., C. D., of , in the said county, [labourer,] did then and there falsely personate one G. H., the late [master] of the said E. F., and did then and there personally [or, in writing]

(a) See ante, p. 551, &c. The act gives this form.

(b) See ante, p. 550. The act gives this form.

(c) Ante, p. 565. See Forms, Arch. Forms of Com. and Conv. 298. The statute gives the formal parts of the conviction.

give the said *N. O.* a false and counterfeited character of the said *E. F.*, contrary to the form of the statute in such case made and provided. *Whereby, &c.* 30. Forms.
 [as usual, to the end. See the 32 Geo. III. c. 56, s. 1, *ante*, 565. Penalty, 20*l.*; half to the informer and half to the poor of the parish. *Id.* s. 6.]

The statute s. 9 gives the formal parts of the conviction. See it, *ante*, 566. Conviction.

Commence as in preceding Form.—State the offence thus: *That C. D., of, &c., on, &c., at, &c., did knowingly and wilfully pretend and falsely assert to the said N. O., in writing, that one E. F. had been hired and retained by him, the said C. D. as a [servant]; whereas, in truth and in fact, the said E. F. was never so hired or retained by the said C. D. as a [servant] [or, that one E. F. had been hired and retained by him, the said C. D., as a [servant], and had served him, the said C. D., for the space of years; whereas in truth and in fact, the said E. F. had been retained by and had served the said C. D. as such [servant], as aforesaid, for the space of [one year and two months] only; [or, that one E. F. had been hired and retained by the said C. D. in the situation and capacity of a [footman], and had served him, the said C. D., as a [footman], as aforesaid; whereas, in truth and in fact, the said E. F. never was hired or retained by the said C. D. in the situation or capacity of a [footman], or served him, the said C. D., as a [footman], but was hired and retained by, and served the said C. D. in the capacity of a [labourer] only; contrary to the form of the statute in such case made and provided. Whereby, &c.* [Conclude as usual.]

The statute prescribes the formal parts of the conviction; see *ante*, 566.

Commence as in Form, No. 38. State the offence thus: *That C. D., of, &c., on, &c., at, &c., did knowingly and wilfully pretend, and falsely did assert [in writing], that one E. F., formerly a [servant] of the said C. D., was discharged by the said C. D., and had left his service on, &c.; whereas, in truth and in fact, the said E. F. was discharged by, and had left the service of, the said C. D. on, &c. [or, that one E. F. had not been hired or employed in any previous service; whereas, in truth and in fact, the said C. D. then well knew that the said E. F. had previously been hired and employed in the service of one G. H.; and whereas, in truth and in fact, the said E. F. had previously been so hired and employed in the service of the said G. H.]; contrary to the form of the statute in such case made and provided. Whereby, &c.* [Conclude as usual.]

The statute gives the formal parts of the conviction; see *ante*, 566.

Commence as in Form, No. 38. State the offence thus: *That C. D., of, &c., on, &c., at, &c., did offer himself as a servant to the said N. O.; he, the said C. D., then and there asserting and pretending to the said N. O. that he had served in the service of one G. H.; whereas, in truth and in fact, he had never actually served in the service of the said G. H. [or, with a false, forged, and counterfeited certificate of character, purporting to be the certificate of one G. H., and stating that, &c.; whereas, in truth and in fact, the same was not the certificate of the said G. H.; and whereas, in truth and in fact, &c.]; contrary to the form of the statute in such case made and provided. Whereby, &c.* [Conclude as usual.]

The statute gives the formal parts of the conviction; see *ante*, 566.

Sessions of the Peace.

THE term "Session of the Peace" is used to designate a sitting of justices for the execution of those purposes which are confided to them by their commission, and by several acts of parliament. Of these sessions there are four kinds—petit, special, quarter, and general sessions: the first of which is a

Session of the peace, what.
Four kinds.

(a) *Ante*, p. 565. The statute gives the formal parts of the conviction.

Sessions of the Peace.

General and quarter sessions.

Difference between general quarter and special sessions.

Central Criminal Court.

mere private meeting of justices, on their own motion; and the second an assembly summoned for a particular purpose,—as, licensing alehouses, or appointing the overseers of a parish, or the like.

Under this head, we are to treat only of the latter, which are similar in every respect, except as to the time of holding. Petit and special sessions will be noticed in another place, *post*, “Sessions, Petit and Special,” p. 622.

A general sessions of the peace is a court of record, holden before two or more justices, whereof one is of the *quorum*, for execution of the authority given them by the commission of the peace, and certain statutes and acts of parliament. (*Dalt. c. 185; Cro. Cir. C. 13.*)

It is a meeting of justices for the execution of their general authority. (*Lamb. 379.*)

The sessions cannot be held without the presence of two justices. (1 *Bla. Com. 354, n.*) And so strict is this law, that if there be not enough justices to hold a sessions, they cannot adjourn it to hold same legally. (*R. v. Westington, 2 Bott. 733.*)

The king may grant a commission of the peace for a county, and under such commission the jurisdiction of the justices named in it will extend over the whole of such county; or he may grant it for any particular district or portion of a county, exclusive of the jurisdiction of the justices of the county at large; or he may by charter give the power of acting as justices to certain officers in towns corporate, cities, and other places. In the latter cases, however, the justices of the county at large in which such district, town corporate, city, or other place, shall happen to be situate, can only be prohibited from interfering by special words in the commission or charter of the inferior jurisdiction, called technically “a *non intromittant clause*.” (*R. v. Sainsbury, 4 T. R. 456; et vide title “Justices,” Vol. III. p. 554 to 558.*)

According to Mr. *Lambard*, general and quarter sessions are synonymous terms; for he makes no distinction between them. This, however, is erroneous: for it seems that quarter sessions are a species only of the general sessions, and that such sessions only are properly called *general quarter sessions*, which are holden in the four quarters of the year, in pursuance of the 2 Hen. V.; and that any other sessions, holden at any other time for the general execution of the justices’ authority, which by the said statute they are authorized to hold oftener than at the times therein specified, if need be, may properly be called *general sessions*, and those holden on a special occasion, for the execution of some particular branch of their authority, may properly be called *special sessions*. (2 *Haw. c. 8, s. 47.*)

As to the Central Criminal Court and its jurisdiction and other matters relative thereto, and how far it takes away the jurisdiction of the sessions in London, Westminster, Middlesex, Essex, Kent, and Surrey, see “*Central Criminal Court*,” Vol. I. *post*, 610.

Herein of,—

I. *The Time and Place of Holding the Sessions*, p. 583 to 587.

[36 Edw. III. c. 12; 12 Ric. II. c. 10; 2 Hen. V. st. 1, c. 4; 14 Hen. VI. c. 4; 1 & 2 Geo. IV. c. 63; 1 Wil. IV. c. 70; 4 & 5 Wil. IV. c. 47; 4 & 5 Wil. IV. c. 36; 5 & 6 Wil. IV. c. 76.]

II. *The Mode of Convening, &c., and who must attend. Suitors, Witnesses, Attorneys, &c.*, p. 587 to 590.

III. *The Mode of Proceeding at Sessions*, p. 591.

[5 Geo. II. c. 19; 22 Geo. II. c. 46; 59 Geo. III. c. 28; 6 & 7 Wil. IV.]

1. *In General*, p. 591 to 594.

2. *In Trials for Offences*, p. 594 to 601.

3. *In Trials of Traverses*, p. 601.

4. *In Hearing of Appeals*, see “*Appeals*,” Vol. I.

IV. *The Jurisdiction, Power, and Duties of the Sessions*, p. 602 to 619.

[18 Edw. III. st. 2, c. 2; 34 Edw. III. c. 1; 8 & 9 Wil. III. c. 30;
15 Geo. II. c. 24; 38 Geo. III. c. 52; 51 Geo. III. c. 100;
60 Geo. III. & 1 Geo. IV. c. 14.]

1. *Time and Place of Holding the Sessions.*

1. *In what Matters*, p. 602 to 614.

2. *Their Judgments*, p. 614 to 617.

3. *Special Cases*, p. 617.

4. *Costs*, see "*Costs*," Vol. I.

V. *Adjournment of*, p. 619.

VI. *Fees, Estreats, and Costs*, p. 620.

[12 Ric. II. c. 10; 14 Ric. II. c. 11.]

VII. *Forms*, p. 621.

I. *Time and Place of Holding the Sessions.*

Time of Holding.—By the 36 Edw. III. c. 12, it is ordered, that the justices shall hold their sessions four times in the year, viz. one session within the *Utas* of the Epiphany, the second within the second week of Midlent, the third betwixt the feasts of Pentecost and of St. John Baptist, the fourth within eight days of St. Michael.

How many sessions shall be kept.

But by the 12 Ric. II. c. 10, the justices shall keep their sessions in every quarter of the year at least; and by three days, if need be: on pain of being punished according to the discretion of the king's council, at the suit of every man that will complain.

This statute did not specify the periods; but in Henry the Fifth's reign an act was passed for that purpose, 2 Hen. V. st. 1, c. 4, which directs, "that the justices of the peace in every shire named of the *quorum* be resiant within the same shire, except lords named in the commission of the peace; and also except justices of the one bench and of the other, the chief baron of the Exchequer, serjeants at the law, and the king's attorney for the time that the same justices, chief baron, serjeants at the law, and the king's attorney, be intending, and occupied in the king's courts, or otherwise in some other place occupied in the king's service; and make their sessions four times by the year,—that is to say, in the first week after the feast of St. Michael, [now directed by 54 Geo. III, *infra*, to be in the first week after the 11th October, except in London and Middlesex,] and in the first week after the Epiphany, and in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr, and more often, if need be; and that the same justices hold their sessions throughout the realm of England, in the same weeks every year from henceforth."

At what periods.

The strict regular exposition of this statute of 2 Hen. V. is, that if the feast-day fall upon a Sunday, the sessions shall be held in the week following, and not the same week. (2 *Hale*, 49.)

The holding of the *Michaelmas quarter sessions* was afterwards altered and regulated by the 54 Geo. III. c. 84, which, after reciting, "whereas the time now appointed for holding the quarter sessions for the Michaelmas quarter might be altered, so as to render the attendance at the same more generally convenient than it is at present," enacts, "that from and after the passing of this act, the *quarter sessions* for the Michaelmas quarter shall in every year be holden, for every county, riding, division, city, borough, and place, within England and Wales, and for Berwick-upon-Tweed, in the first week after the 11th day of October, instead of at the time now appointed for holding the same; and that all acts, matters, and things done, performed, and transacted at the time appointed by this act, for holding the said Michaelmas *quarter sessions*, shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at the time heretofore appointed for the holding of such sessions, notwithstanding any former act or acts to the contrary."

Michaelmas sessions, 54 Geo. 3, c. 84.

1. *Time and Place of Holding the Sessions.*

Sect. 2. "Nothing in this act shall extend, or be construed to extend, so as to alter or vary the time at which the sessions for London or Middlesex are now holden."

This enactment of 54 Geo. III. is directory and not imperative, see *post*, 585.

1 Wil. 4, c. 70.

These enactments still remain unrepealed, but the times of holding the general quarter sessions are now pointed out by the recent act of 1 Wil. IV. c. 70, s. 35, and 4 & 5 Wil. IV. c. 47, the first of which, after reciting that "the general quarter sessions of the peace are now directed to be held in each year in the first week after the eleventh day of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr; and whereas it will be expedient that the times of holding the *general quarter sessions* of the peace should be *altered in part*:" enacts, "that in the year of our Lord 1831, and afterwards, the justices of the peace in every county, riding, or division, for which *quarter sessions* of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the *general quarter sessions* of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at *general quarter sessions* of the peace holden at the times by law limited for the holding thereof before the passing of this act."

4 & 5 Wil. 4, c. 47.

1 Wil. 4. c. 70.

By the 4 & 5 Will. IV. c. 47, intituled "An Act for preventing the Interference of the Spring Assizes with the April Quarter Sessions," [13th August, 1834], reciting, "Whereas by an act passed in the first year of the reign of his present majesty, intituled 'An Act for the more effectual Administration of Justice in England and Wales,' it is directed, that the justices of the peace in every county, riding, or division for which quarter-sessions of the peace ought by law to be held shall hold their general quarter-sessions of the peace (among other times) in the first week after the twenty-eighth day of December, and in the first week after the thirty-first day of March: and whereas in some counties of England and Wales the time usually fixed for holding the spring assizes interferes with the due holding of the last-mentioned quarter-sessions, and although the justices of the peace have authority to hold general sessions of the peace at other times of the year besides those specified in the said recited act, such sessions are not quarter sessions within the intent of various acts of parliament which give jurisdiction to justices of the peace in their quarter-sessions or in their general quarter-sessions; and for the purpose of preventing the inconvenience arising from such interference as aforesaid, it is expedient to allow to the justices of the peace a discretion as to the time of holding their general quarter-sessions, which they are now required to hold in the week next after the thirty-first day of March:" he it therefore declared and enacted, "That in every county, riding, or division for which general quarter-sessions ought to be held it shall be lawful for the justices assembled in their general quarter-sessions in the week next after the twenty-eighth day of December in every year to name (if they shall see occasion so to do) two justices of the peace, who shall be empowered, as soon as may be after the time for holding the spring assizes shall be appointed, to fix the day for holding the next general quarter-sessions of the peace for such county, riding, or division, so as such time shall not be earlier than the seventh day of March, nor later than the twenty-second day of April, and to give notice of the day so fixed by advertisement in such newspapers as shall be directed by the justices so assembled; and in every such case the general quarter-sessions held on the day so fixed and notified shall be valid, and it shall not be necessary to hold any sessions of the peace for such county, riding, or division, in the week next after the thirty-first day of March, any thing

Justices at Epiphany sessions may name two of their body to fix the day for holding the next general quarter-sessions.

in the said recited act to the contrary notwithstanding: provided always, 1. *Time and Place of Holding the Sessions.* that in every county, riding, and division where no other day shall be fixed in the manner herein-before mentioned, the justices of the peace shall hold their general quarter-sessions of the peace in the week next after the thirty-first day of March, as by the said recited act they are required."

The quarter-sessions are in fact variously holden in several counties, some at one day, and some at another; yet it hath been ruled, that these are each of them good quarter-sessions within the several acts that relate to quarter-sessions; for those acts, especially the 2 Hen. V., are only directory, and in the affirmative; and therefore, though the sessions are held on another day, according to the general direction of the 12 Rich. II., yet they are quarter-sessions. (2 Hale, 50.)

Proviso.

Are variously held in different counties.

Statutes 2 Hen. 5,

And, on the same principle, it has been recently decided, that although the 54 Geo. III. c. 84, provides that the quarter-sessions for the Michaelmas quarter shall be holden in the first week after the 11th of October, instead of the time then appointed for holding the same, this act also is only directory, and the Michaelmas quarter-sessions may be lawfully holden in another week than that so specified by the statute. (*R. v. Justices of Leicester*, 9 D. & R. 772; 7 B. & C. 6.)

and 54 Geo. 3, only directory.

An original intermediate general sessions by magistrates, and not merely an adjournment of a quarter-sessions, may be held, under the authority of the 2 Hen. V. st. 1, c. 4. The point was raised on a question as to the validity of an indictment for murder found at such intermediate sessions, which was a sessions held in addition to the eight which are usually holden for Middlesex. (*R. v. Mullaney*, 6 C. & P. 96.)

Original intermediate session.

Sessions for London, Westminster, and Middlesex.—The sessions in London and Middlesex are, it may be seen, excluded from the operation of the 54 Geo. III. c. 84; and the regulations under which they are held are distinct in many respects from those which govern the other parts of the kingdom.

Sessions for London, Westminster, and Middlesex.

By the 14 Hen. VI. c. 4, in Middlesex, the justices shall keep their sessions twice in the year at least, and more often (if need be) for any riot or forcible entry.

And, in consequence of the large population of the districts of London and Middlesex, their sessions are in fact holden *eight times* in the year; four as quarter-sessions, not exactly at the times directed by the statutes, but as near to them as convenience will admit, and the other four as original general sessions, in the intervening periods; and both have equal jurisdiction to take and try indictments, except in cases where, by statute, jurisdiction is given exclusively to the quarter-sessions. (*Burly v. Watson*, 2 Bla. Rep. 1051.)

In Middlesex, the justices have a commission of oyer and terminer, under which they act at the time when their sessions are holden.

The sessions for the *liberty of Westminster* are only holden *four times* a year, and under a different commission of the peace from those for Middlesex; yet offences committed within the liberty may be prosecuted and determined at the county sessions; and if a party be bound by recognizance to prefer a bill of indictment, and prosecute for an offence, at the next session of the peace for Westminster, and do in fact prefer a bill at the next sessions for Middlesex, it is holden to be in compliance with the terms of his recognizance. (*Dick. Sess. by Talfourd*, p. 26.)

Sessions for Boroughs and Places under the Municipal Corporation Act.—As to these see the 5 & 6 Wil IV. c. 76, s. 103, 104, 105, 106, 107, and 111; ante, "Corporations," Vol. I.

Sessions for boroughs under the Municipal Corporation Act.

Central Criminal Court.—As to this, see "Central Criminal Court," Vol. I.

Central Criminal Court.

When a sufficient Number of Justices do not appear.—It sometimes happeneth that, on the day appointed for holding the sessions, a suffi-

When a sufficient number of justices do not appear.

1. *Time and Place of Holding the Sessions.*

Precept for, not necessary.

cient number of justices do not appear. And a question arises, what is to be done in such a case? It seemeth to be generally understood that the sessions for that quarter of the year are irrecoverably lost. But the matter seemeth not altogether so desperate. For there are obvious remedies: by the first of which it may be possible to recover the sessions in the very identical week next after any of the respective holidays above-mentioned; by the latter, at all events, a session may be held. As to the former case, there cannot be time, indeed, within that week, to summon a sessions *de novo*; but neither is that absolutely necessary. A session may be holden without a previous summons; and the justices there may adjourn to another day, and issue their precept to the sheriff against the day of adjournment. To which purpose, Mr. *Lambard* (380) saith thus: "Albeit that the sessions be commonly, and most orderly, summoned by a precept in writing; yet it is not altogether of necessity (for the making of a lawful sessions) to have it so. For if competent justices of the peace do get men to serve, and thereupon do hold a sessions, without any precept before directed, all presentments made before them by twelve lawful men shall be of force in law; but no man shall lose any thing for his default of appearance there, because no man had notice of their sitting." Thus far as to saving the original sessions' week; for how many adjournments soever shall be holden afterwards in that quarter of the year, all shall refer to the first commencement of the sessions; and thereby some processes or recognizances may be saved which may possibly run for appearance at the sessions to be holden in the week next after any of the holidays above-mentioned (a).

But the general (and better) form of such instruments is otherwise. And certainly, though a session shall not be holden within a week after such feast-day, it doth not follow, that therefore it cannot be holden in any of the twelve weeks after. Undoubtedly, any two justices, one whereof is of the *quorum*, by the words of the commission of the peace, may issue their precept to the sheriff, to summon a session, for the general execution of their authority. And so far is the statute from saying, that if the sessions be not holden in the week next after such respective feasts as aforesaid, such session shall be void, the very same statute directs, that the justices shall hold their sessions *more often if need be*; and greater need cannot be than when the former meeting of the justices hath been frustrated. (2 *Haw. c. 8, s. 41.*)

From the case of the *King v. the Justices of London*, 15 *East, R. 632*, it appears that, if sufficient justices do not appear on the day appointed for holding sessions, the magistrates may, indeed, afterwards hold a general session for general purposes; but it is not so certain that such session would be good as a quarter session, in respect of such matters as are expressly made cognizable at a quarter session only. The cases which have been supposed to prove that such subsequent session would not be good as a quarter session, do not establish that proposition, but merely prove that, where one original session has been actually holden, a second within the quarter cannot be also good as a quarter session. (*R. v. Polstead*, 2 *Strange*, 1263; *R. v. West, Torrington, Burr. S. C. 293*; see *R. v. Mullaney*, 6 *C. & P. 96*; *ante*, 585.)

The places where county sessions to be holden.

The Places where Sessions are to be held.—The justices by whom the precept to convene a quarter session is issued, may name any place within

(a) In consequence of the unusual pressure of business in the year 1815, the magistrates of Stafford submitted the following queries to the law officers of the crown:—"Whether, either by the commission of the peace or by statute, the justices are empowered to hold a general sessions or an adjournment of the quarter sessions for the trial of prisoners, at such times and places as they may think proper, and for that purpose to summon jurors and compel the attendance of prosecutors and witnesses? and if empowered

so to do, whether it would be advisable to hold such sessions?" From the answer given to this, it appears that, where the quarterly meetings of justices are not sufficient for the despatch of business, they may adjourn the sessions to some intermediate day, instead of holding an extra-original session. This course, according to the opinion of the law officers alluded to, is unquestionably legal. See the opinion, 5 *Burn's J. 24th ed. tit. "Sessions."*

the county, division, riding, or liberty for which it is summoned, as that 2. *The Mode of* where it is to be holden, according to their discretion; and then all officers *Convening, &c.* and suitors of the court will be bound to give their attendance. (*Dalt.* 185.)

The 28 Geo. III. c. 49, s. 4, contains an enactment empowering justices 28 Geo. 3, c. 49. for counties to act, in certain cases, in a city being a county of itself. See the enactment, *ante*, "*Justices*," Vol. III. p. 554.

Also the 1 & 2 Geo. IV. c. 63, *ante*, Vol. III. p. 554, empowers justices 1 & 2 Geo. 4. c. 63. for counties, &c., to act for such counties in exclusive jurisdictions, &c.

Also by the Municipal Corporation Act (5 & 6 Wil. IV. c. 76, s. 111, 5 & 6 Wil. 4, c. 76. *ante*, Vol. III. p. 555,) in every borough in which the king shall not grant a separate court of quarter sessions, the justices of the county within which such borough is situated, shall exercise in it the same jurisdiction as they may in any other part of the county; and see further as to exclusive jurisdictions, *ante*, Vol. III. p. 555.

II. The Mode of Convening, &c., and who must attend at Sessions. Suitors, Witnesses, Attorneys, &c.

By whom convened.]—A general session may be convened by any two By whom convened. justices within the jurisdiction, one being of the *quorum*, or by the *custos rotulorum*, and any one justice, but not by the *custos rotulorum* alone, or by one justice alone. (*Lamb.* 375.)

How convened.]—The mode of convening such session is usually by precept, directed under their teste to the sheriff, for the summons of the sessions, thereby commanding him to return a grand jury before them, or their fellow-justices, at a certain day and place, and to give notice to all stewards, constables, and bailiffs of liberties, to be present, and do their duties at such day and place, and to proclaim, in proper places, throughout his bailiwick, that such sessions will be holden at such day and place, and to attend there himself to do his duty. (2 *Haw.* c. 8, s. 42.)

Such precept shall bear teste, or be dated, fifteen days before the return, and ought forthwith to be delivered to the sheriff, to the end he may have sufficient time to proclaim the sessions, to summon and return the several juries, and to warn all officers and others that have business there to attend. (*Nels. Introduct.* 35.)

Without such precept to the sheriff, no one is bound to attend a general session; but if the session be holden after an irregular precept, and the parties necessary to the despatch of business attend, and the business be regularly transacted, the proceedings will be valid. (*Lamb.* 375; *Reg. v. the Bailiffs of Ipswich*, *Ld. Raym.* 1238; *ante*, 586.)

A precept for a general session, issued by two justices, cannot be superseded by other justices, but only by a *supersedeas* issued out of chancery. (*Lamb.* 378, l. 4, c. 2; 2 *Haw.* c. 8, s. 43.)

But it is not sufficient that the precept run under the name of the *custos rotulorum* alone; for he hath no more authority in this behalf than any one of his fellow-justices; and the words of the commission are, that the sheriff shall cause a jury to appear at such days and places as the said justices, or such two or more of them, as aforesaid, shall appoint. (*Lamb.* 382, *supra*.)

Mr. *Lambard* puts a case from Mr. *Marrow*, That if two or more justices appoint the sessions to be holden in one town, and so many more appoint a sessions in another town the same day, and holds they may be so held, and that the presentments in both are good; but that appearance at one is a discharge of service at the other. But it may be well questioned whether they are not both void; for they make two courts of that which ought to be entire and but one; for it doth not appear that the justices are required or enabled to hold more than one sessions at a time, and so, their authority being equal, and seeing no preference can be made by the priority of time, or nature of the service, they may be taken to be both void. However, the justices, by whose forwardness such division happens, or on whom such mis-

2. *The Mode of Carriage* is chargeable, are punishable for the same by information and fine, or being put out of the commission, as the case shall require. (*Dalt. c. 185, p. 457.*)

Proceedings of justices should be decorous.

Indeed, it is of infinite importance that the proceedings of magistrates should not only be substantially good, but also that they should be decorous. Wherefore, where two sets of magistrates have concurrent jurisdictions, and one appoints a meeting to grant ale licences, their jurisdiction attaches so as to exclude the others appointing a subsequent meeting; but they may all meet together on the first day. But if, after such appointment, the other set of magistrates meet on a subsequent day, and grant other licences, their proceeding is illegal, and the subject of an indictment. (*R. v. T. Sainsbury, Esq., and another, 4 T. R. 451; see Vol. I. p. 100.*)

Who must attend at sessions.

Who must attend at Sessions.—In this place it will not be necessary to do more than mention the names of the persons who constitute these sessions of the peace; information as to their appointment, offices, duty, liability, &c., may be found, under their respective titles, in this work.

They are as follows:—

Justices.

Justices being interested.

(1.) The *Justices of the Peace*: these, without doubt, are compellable to appear at the sessions; for, without their appearance, the sessions cannot be holden. (*Dalt. c. 185, p. 457.*) But a justice ought not to join in an order at sessions wherein himself is concerned, nor ought his name to be in the caption. An order was quashed for that reason. (*The case of Foxham Tithing, Wilts, 2 Salk. 607.*) In the *Queen v. the Bailiffs of Ipswich*, it is laid down, that unless a commission of the peace nominates a *quorum*, all the justices appointed by it must attend at a sessions. (2 *Ld. Raym.* 1232; and see 9 *B. & Cres.* 859.) In *R. v. Carlile, 4 C. & P.* 415, the Court of King's Bench refused to grant a *habeas corpus* to discharge out of custody a person who had been convicted of libel at the commission of oyer and terminer at the Old Bailey, on the ground that when the verdict was returned only one commissioner was present instead of two, as required by law. It seems questionable, however, whether such a circumstance may not be assigned as error.

Custos rotulorum.

(2.) The *Custos Rotulorum*, who hath custody of the rolls of sessions, ought (by the commission) to be there by himself, or by his deputy, who is the clerk of the peace. (*Dalt. c. 185, p. 458.*)

Sheriff.

(3.) The *Sheriff*, also, by virtue of the commission, by himself or his deputy; to receive the fines, or return jurors, to execute process, and what else to his office doth appertain. (*Id.*) See post, "*Sheriff.*"

Coroners.

(4.) All *Coroners*. (*Id.*) See "*Coroner.*" Vol. I.

High constables.

(5.) The *Constables of Hundreds*, (that is, high constables,) and all other officers to whom any warrant hath been directed, in order to make return thereof. (*Id.*) See "*Constable.*" Vol. I.

Bailiffs.

(6.) All *Bailiffs of Hundreds and Liberties*, in respect they are bound to give an account of all sessions' process. (*Id.*)

Gaoler.

(7.) The *Gaoler*; to bring thither his prisoners, and to receive such as may be committed. (*Id.*) See "*Gaol.*" Vol. II.

Keeper of the house of correction.

(8.) The *Keeper of the House of Correction*, to give in a calendar and account of persons in his custody. (*Id.*)

Persons returned by the sheriff,

(9.) All persons returned by the sheriff, by virtue of the aforesaid precept. And the jurors, not appearing according to their summons, are punishable by loss of issues, which usually make part of the estreats of sessions. (*Id.*)

or by recognizance.

(10.) All persons returned by *Recognizance* to answer, or to prosecute and give evidence. (*Dalt. c. 185, p. 458.*)

Suitors of the court.

Suitors of the Court, is a term which may be supposed to imply only those who have some voluntary suit to prosecute; but it may be used as descriptive of all persons who have any duty to perform, or any *necessary business* to execute, voluntary or official, before the court.

Clerk of justices.

A *clerk to justices* in petty sessions, appointed by order of such sessions, has no legal hold upon his office, nor will the Court of King's Bench inter-

here if he is dismissed summarily, and without cause assigned. (*Ex parte Sandys, Gent.*, 1 Nev. & M. 591; 4 B. & Adol. 863.)

As to the office of *clerk of the peace*, see "*Clerk of the Peace*," Vol. I.

Witnesses.]—We have already seen, that when a charge is made before a magistrate, he may bind over the party making the charge to prosecute and give evidence, and also all who can give material evidence; and, on their obstinate refusal, may commit them. And as to the proper course to be pursued in different cases of this nature, see title "*Examination*," Vol. II. p. 99, 101.

It may be now necessary to notice the process by which witnesses are compelled to attend.

When any offender is brought before a justice by warrant, or otherwise, for felony, or breach of the peace, beside the informant, and any witnesses who may happen to be voluntarily present (and whom, it has already been seen, it is the duty of the examining justice to bind by recognizance to appear at the session), there may be others known to him, whose testimony may be necessary, or at least useful, on the occasion. These the justice may issue his *warrant* to bring before him, to be examined touching the matter in question, [see Form, *post*, 622]; but it is more common, in the first instance, especially if they be respectable persons, to make it only a summons.

If the evidence be found by the justice on examination to be material, he must then be bound by recognizance, like the rest, to attend at the session of the peace, and give it to the court and juries there, in like form, varied only according to the circumstances of the offence; and if he refuse to enter into such recognizance, the justice may commit him to gaol; (2 *Hale*, 282; 1 *Hale*, 586; *Bennet et Uxor v. Watson*, 3 M. & Sel. 1;) wherein, if he obstinately continue till the session, he may be brought up to the court by writ of *habeas corpus ad testificandum*. 31 Car. II. c. 2; 44 Geo. III. c. 102. See "*Habeas Corpus*," Vol. III.

Lord *Preston*, being committed by the court of quarter-session for contempt, in refusing to be sworn to give evidence to the grand jury, on an indictment of high treason, he was brought, by *habeas corpus*, into the Court of King's Bench; and *Holt*, C. J., said, it was a great contempt, and that, had he been there, he would have fined him, and committed him till he paid the fine; but being otherwise, he was bailed. (*R. v. Lord Preston*, *Salk.* 278.)

The process, to bring before the grand jury or court such witnesses as have not been bound by recognizance to appear, whether on the part of the prosecution, or for the defendant, is by *subpœna*; which, whatever might have been the law in former times, (2 *Haw.* c. 46,) is now to be obtained in all cases whatsoever; (2 *Wil.* III. c. 3; 1 *Anne*, c. 9; 4 *Bla. Com.* 359; 2 *Haw.* c. 46;) for the assizes, from the Crown Office; for the sessions, from the clerk of the peace, or from the Crown Office. And the service of a *subpœna*, issued out of any court of competent jurisdiction, is declared to be equally good with service in the particular county where the party is required to attend; 45 Geo. III. c. 92. As to how a party may be punished for disobedience to the *subpœna*, see "*Evidence*," Vol. II. p. 101.

The writ of *habeas corpus ad testificandum*, for a witness in prison, can only be obtained by an affidavit made by the party applying, stating the confinement of the person whose evidence is wanted; that he is a material witness; that the trial cannot safely be proceeded in without his presence; and that it is about to take place at a certain time and place, with such other circumstances (if required) as may show the necessity for the application. It may be granted by any one of the judges of the superior courts in England and Ireland (44 Geo. III. c. 102). It is to be served on the person in whose custody the party is detained. See *ante*, "*Evidence*," Vol. II. p. 102.

Protection of Court to Suitors, Freedom of Access, &c.]—All persons may freely attend at the sessions for the advancement of public justice, and for the service of the king. And to this end they are (as it were) invited thither

Protection, &c. of court to suitors, &c., freedom of access.

2. *The Mode of Convening, &c.* by a certain freedom of access, and by protection from common arrest: a thing that is incident to each court of record, and without which justice would be greatly hindered. So that, if a man come voluntarily to the sessions, either to prefer a bill of indictment, or to give information against another, or to tender fine upon an indictment touching himself; or do come compelled to make appearance for saving his recognizance, and be arrested by the sheriff, upon common and original process, in his coming thither, or during his tarrying there, it seemeth (Mr. *Lambard* says) that (upon examination of the matter under his oath) he shall be discharged thereof by the privilege of this court, even as it is used in the higher courts at Westminster. (*Lamb.* 402.)

But Mr. *Hawkins* puts it more doubtfully, saying, "it is questioned whether the sessions, as also all courts of record, may not discharge any person arrested during his journeying to or from such courts, or necessary attendance there, by process from any other court: however, it seems to be agreed that any such court may discharge a person who shall be so arrested in the face of it." (2 *Haw. c.* 1, s. 19.)

But now no doubt can be entertained on the subject; and this privilege is so incident to the duty of attendance on judicial proceedings, that it has been construed to extend to the case of a party to a cause attending an arbitrator, to be examined under an order of *nisi prius* made a rule of court. (*Spence v. Stuart, Bart.*, 3 *East*, 89.)

On general principles, this privilege from arrest, *cundo, morando, et redeundo*, applies to the case of every person in necessary attendance on a court of justice; and, for this purpose, the sitting of commissioners of bankrupt, or of an arbitrator, is so deemed. (*Arding v. Flower*, 8 *T. R.* 534.)

Privilege from arrest, &c.

And it seemeth to have been agreed in the argument upon Col. *Pitt's* case, 2 *Stra.* 987 (which was an arrest in his return from parliament), that not only in the high court of parliament, but also in the inferior courts, the parties to the suit, and also the witnesses, are protected in going, continuing, and returning. This returning hath never been very nicely scanned, so as to require a man to go the direct road. Neither is the law so strict in point of time as to require a person to set out immediately after the trial is over; and for that was cited the case of *Hatch v. Blisset*, *T.* 13 *Anne.* She had a trial at Winchester assizes, which was over on Friday at four in the afternoon; she stayed there till after dinner on Saturday; and in the evening at seven was arrested going home to Portsmouth, which is twenty miles; and the court held, that she ought to be discharged, her protection not being expired, and a little deviation of loitering would not alter it.

But where a man is arrested by process out of the courts at Westminster, it doth not seem that the justices of the peace (unless the arrest be made in the sessions) have power to discharge him; but on application to the court from which the process issued (see *Selby v. Hills*, 8 *Bingh.* 166; 1 *M. & Scott*, 253; 1 *Dowl. P. C.* 257, S. C.; *Kinder v. Williams*, 4 *T. R.* 377; *Ex p. Whitehead*, 1 *Dowl. P. C.* 3), such court probably may discharge him, and punish the person who made the arrest.

Who shall act in the sessions as solicitor.

Attorneys.]—By the 22 *Geo. II. c.* 46, s. 12, no person shall act as a solicitor, attorney, or agent, or sue out any process at any general or quarter-sessions, either with respect to matters of a criminal or a civil nature, unless he be admitted and enrolled according to law, on pain of 50*l.* to him who shall sue in twelve months, with treble costs; and if any attorney shall permit any person to make use of his name in the said court, he shall in like manner forfeit 50*l.* (See *Halk v. Williams*, 1 *C. & M.* 23; 3 *Tyrw.* 158, S. C.)

Sect. 14. And no clerk of the peace, under-sheriff, or their deputies, shall act as solicitor, attorney, or agent, or sue out any process at such sessions, on the like pain of 50*l.*

Right of counsel or attorney to act, &c.

Right of Counsel or Attorney to act in Court.]—As to the right of a counsel or attorney to be present or act as the legal adviser of the party, see "*Justices*," Vol. III. p. 566; and as to the prisoner's right to have counsel, and the office and duties of counsel, see, *post*, 598.

III. The Mode of Proceeding at Sessions.

And herein—1. Of the Mode of Proceeding in General—2. The Trial of Time of meeting. Offences—3. The Trial of Traverses—and 4, The Hearing of Appeals.

1. IN GENERAL.

It is necessary that the court should assemble before twelve at noon on Hour. the day for which it is summoned; for by the 25 Car. II. c. 2, s. 2, the qualification oaths, &c., must be taken between the hours of nine and twelve in the forenoon.

The justices being met, the crier or bailiff usually proclaims the session in the following terms:

O yez, O yez, O yez,—The king's justices do strictly charge and command all Proclamation. manner of persons to keep silence, whilst the king's commission of the peace for this county of is openly read, upon pain of imprisonment.

O yez, O yez, O yez,—All manner of persons who have anything to do at the general quarter sessions of the peace for this county, draw near and give your attendance.

The commission, the king's proclamation against vice, &c., and the several statutes directed to be read at the sessions, ought now to be read by the clerks of the peace and the town clerks respectively. These were principally the following:—5 Eliz. c. 1, against popery (a); 30 Car. II. c. 3, as to burying in woollen (a); 11 & 12 Wil. III. c. 15 (a), as to ale measures; 1 Geo. I. c. 5, as to riots; and the black act, 9 Geo. I. c. 22 (a), which have been required to be given in charge at every quarter-session; and the 4 & 5 W. & M. c. 24; 7 & 8 Wil. III. c. 32; 3 & 4 Anne, c. 18; and 3 Geo. II. c. 25 (a), concerning jurors, which are to be read in Midsummer sessions yearly; and 2 Geo. II. c. 24 (a), for preventing bribery and corruption in the election of members of parliament, which is to be read at every Easter session. Commission and statutes to be read.

It will not be wondered at, that, in the present day, when the time allowed to justices for the performance of their duties has become so much more valuable from the additional pressure of business, the practice of reading these statutes is discontinued. Some of them, besides, are now repealed, some have become obsolete, and the notoriety of the others renders such a course unnecessary.

The sheriff is then called on to return the several precepts directed to him, returnable on that day, that proceedings may be commenced thereon. Return of precept.

The call is thus:—*Sheriff of this county, return the several precepts to you directed and returnable here this day, that his majesty's justices may proceed thereon.* Second proclamation.

The sheriff makes his return accordingly.

The persons who attend to take the several oaths are next called, and such oaths are administered to them by the clerk of the peace. Oaths to be taken.

We have already noticed the act 25 Car. II. c. 2, and 1 Geo. I. c. 13, which direct persons to take the oaths between the hours of nine and twelve in the forenoon; and not otherwise. But it has been held a sufficient compliance with the statute, if the ceremony of administering the oaths of qualification for offices be commenced previous to the last of the hours of limitation appointed by the statute, and continued till all are sworn. *Dick. Sess.*

The oaths of qualification and indemnity having been administered, it is then usual for the clerk of the peace to call over the constables of hundreds, Calling constables, &c.

(a) These statutes are most of them now repealed: see the respective titles of *ante*, p. 332; "**Malicious Injuries to Property**," Vol. III; "**Jurors**," Vol. III.; "**Bribery**," Vol. I. "**Popery**," *ante*, p. 255; "**Weights and Measures**," *post*; "**Riots**,"

3. The Mode of Proceeding at Sessions.

Defaulters.

Grand jury called.

Chairman's charge.

Recognizances called.

Bills preferred.

and of parishes, &c., which is commonly done (with respect to the defaulters on the first call) a second, and even a third time. On their not answering to the name of their respective parishes for which they serve, the court will set a fine on the defaulters.

The names of those returned to serve on the grand jury are now called over by the clerk of the peace (or in cities and towns corporate by the town-clerk). For matters relating to the qualification, &c., of those jurors, see title "*Juror*," Vol. III. p. 494, &c. The number called and sworn should not be less than thirteen, nor more than twenty-three; and it is not unusual at sessions, after sixteen or seventeen names have been called, and the parties have appeared, to consider the inquest as complete, and to dismiss the rest who have attended on their summons.

The ceremony of administering the oaths to the grand jurors being concluded, the chairman of the session ought to deliver his charge, proclamation having been made to keep silence while the charge is given (*a*).

The charge being concluded, the course is to call the recognizances, especially such as are to prosecute and give evidence, that so bills, which have not been previously prepared, may be drawn by the clerk of the peace.

The bills, as they are got ready—that is to say, drawn out fairly and engrossed on parchment (either by the prosecutor's professional adviser, or by the clerk of the peace), with the names of the witnesses written on the backs of them respectively, are delivered to the grand jury, and the parties bound to give evidence upon them, being sworn in court, are sent to the grand jury to give their evidence. It is presumed, of course, that they are all in attendance for these purposes, either by recognizance or under *subpœna*; to which

(*a*) "It is much to be lamented," says Mr. *Dickenson*, in his work on Sessions, "that this part of the chairman's duty is very frequently altogether omitted, and sometimes performed in a very cursory, and even slovenly, manner. The calendar generally presents sufficient occasion for observations on the general state of morals in the particular district; on the activity of justices, chief constables, and all officers of the peace; and on other subjects immediately connected with the duties of the day: and there can be few instances of a session occurring in which there is not some indictment or other to come before the jurors, on which some information may not be, at least, convenient and acceptable, if not absolutely necessary. Indictments for assault, which frequently originate in a spirit of party, malice, or revenge, and are usually one item in the business of a quarter session, present a fruitful source of observation; indictment of roads, another; and some modern statutes (*ex. gr.* those which respect the coin, embezzlement by servants, friendly societies, saving-banks, seditious meetings, and the regulation of the poor of all descriptions) comprehend so many more points of discrimination, as it is no disparagement of the discernment of such persons as usually compose the grand juries at quarter sessions, to say, must be much above their comprehension, without some explanatory remarks from the chairman, by way of previous charge."

These observations on the necessity for a charge, at all events naturally lead to some consideration of the sufficiency of the chairman to discharge this duty, and therefore to introduce a decided reprobation of a measure lately introduced into some counties, of the respective justices taking the chair by rotation. Nothing can be more subversive of regularity, consistency in practice, expedition in business, information to the jurors, authority over the advocates, or satisfaction to the country, than such a practice. To execute the various duties of chairman of a quarter session, as they ought to be executed, requires the *personal* qualifications of *some* legal knowledge, reasonable experience, an acquaintance with forms and technical proceedings, and a portion of that decision and authority, which can only be acquired by a confidence in the possession of these qualities, to at least a certain degree. Unless the chairman possess these requisites to some extent, the jury can receive no information, inexperienced advocates will run riot, and the county will not feel that respect for the court which it is both desirable and useful that it should do. It leads also to another consequence, which ought neither to be agreeable to himself or the bench, or the suitors of the session, viz., that the clerk of the peace, being the only permanent and stationary organ of the court, instead of its minister, becomes its master.

there can regularly be but one exception, and that arising out of a privilege given by a statute to prosecutors of offences committed within the county of a city, or town corporate, to prefer their indictments before the grand jury of the county adjoining, at the assizes for the same, on condition of entering into recognizance to pay the extra costs incurred by such proceeding, if the court shall so direct. In the case of this privilege being taken advantage of, it may be necessary to notice here, that the prosecutor, *ten days before the session*, must give to the defendant, as well as to the witnesses, notices in writing to that effect. (*Dick. Sess. p. 90.*)

The despatch of business in the sessions is now greatly assisted by the enactment of the 59 Geo. III. c. 28, "An Act to empower Magistrates to divide the Court of Quarter Sessions." That act directs, "that whenever and as often as any court of quarter session or general session of the peace shall be assembled for the despatch of business thereunto belonging, the justices then present may, on the first day of their being so assembled, take into their consideration the state of the business likely to be brought before them at such quarter session or general session; and if it shall appear to them that such business, if heard and determined by the whole court, is likely to occupy more than three days, including the day of their being so assembled, it shall and may be lawful for the said justices to appoint two or more justices, one of whom shall be of the quorum, to sit apart from themselves in some place in or near the court, there to hear and determine such business as shall be referred to them, whilst others of the justices are at the same time proceeding in the despatch of the other business of the same court; and that the proceedings so had by and before such two or more justices so sitting apart shall be as good and effectual in the law to all intents and purposes as if the same were had before the court assembled and sitting as usual in its ordinary place of sitting, and shall be enrolled and recorded accordingly."

Sect. 2. "When two or more justices shall have sat apart in manner before directed by this act, and orders, rules, and regulations, shall have been made for the apportionment of business, such orders, rules, and regulations, shall remain and continue in force as long as shall be thought expedient, without the necessity of renewing such orders, rules, and regulations at each succeeding session, to the intent that the same may become public and better known to all professional and other persons engaged in or in any manner interested in the business of such quarter session."

Sect. 3. "The clerk of the peace or his deputy (wherever two or more justices shall sit apart at any quarter session) shall be authorized and required to appoint a fit and sufficient person to record the proceedings so had before the justices sitting apart; and such proceedings shall be delivered over to the clerk of the peace or his deputy, and shall be equally deemed to be a part of the records of such session, as if the same proceedings had been recorded by the clerk of the peace himself; and it shall be lawful for the justices assembled at the quarter session to make an order upon the treasurer of the county to pay to the clerk of the peace such sum or sums of money as they shall deem a fit and reasonable remuneration to the clerk of the peace for such purpose as aforesaid; and it shall be lawful for such justices to appoint an additional crier, and to grant him such remuneration for his care and pains as they shall deem reasonable, which shall in like manner be paid by the treasurer of the county."

This power of dividing, it may be right here to observe, may, according to the second section of the act, either be exercised at each particular session, as the necessity for it shall arise, or it may be provided for prospectively for any number of sessions that may be thought convenient; and, for the effectual execution of the purposes designed by it, the sessions are authorized to call upon the clerk of the peace to appoint a deputy, and for themselves to appoint an additional cryer for such engrafted or emanant court, and to remunerate them respectively for their labours by order on the county treasurer.

In noticing this act, Mr. Dickenson has observed, that, to whatever extent

3. *The Mode of Proceeding at Sessions.*

The sessions may appoint two or more justices (one to be of the quorum), to form a court to sit apart from them.

Regulations for apportionment of business need not be renewed at each succeeding session.

Clerk of peace to appoint a person to record proceedings of separate court.

Sessions may order county treasurer to remunerate clerk of peace.

Remarks on the power of dividing.

3. *The Mode of Proceeding at Sessions.*

the authority confined by this statute be exercised, when the grand jury have received their instructions from the chairman, and have retired to their room, seems the proper moment for the division of the court to take place. The most natural distribution of the various subjects over which a quarter sessions of the peace now has jurisdiction, seems to be, that one division of the court should take that portion which requires the intervention of a jury, with the motions arising out of, or relating to, the commencement, the postponement, and the result of prosecution, whatever it may be; while the other is occupied with the exercise of the summary jurisdiction given to justices by statute, whether original, or by appeal from that of individual magistrates. (*Dick. Sess.* p. 102.)

2. IN TRIALS FOR OFFENCES.

A great part of the business of session consists of the arraignment and trial of prisoners: it will be proper in this place, therefore, to take some notice of the manner of proceeding thereupon; though in the title "*Arraignment*," Vol. I., some information touching these matters has been already given.

Mode of prosecution.

It is said generally, that *all offences* shall be prosecuted at the sessions by presentment, information, or indictment. (*Com. Dig. Justice*, (D. 9.)) But if jurisdiction be given to the sessions to "hear and determine," and the statute doth not say by information, this shall be by indictment, and not upon information. (*Dalt. c.* 191, p. 469.)

Where a power is given to a jurisdiction which does not ordinarily entertain actions, bills, or complaints, in general terms, *to inquire of, hear, and determine* the offence, it must be understood to mean by the common-law mode of proceeding, viz. by indictment or presentment. (*Shipman*, q. t. v. *Henbest*, 4 *T. R.* 109.)

Arraignment.

The bills of indictment having been delivered into court by the grand jury, the gaoler is called to set his prisoners to the bar, and the crier being called to *make a bar*, that is, to dispose of the company, that a way may be made open from the court to the prisoners, and that the court, jury, and prisoners may see each other, one of the prisoners is called to:—"A. B., hold up your hand."

Yet it is not necessary that he hold up his hand at the bar, or be commanded so to do; for this is only a ceremony, for making known the person of the prisoner to the court, and if he answer that he be the same person, it is all one. (2 *Haw. c.* 28, s. 2.)

Humanity towards the prisoner.

Mr. *Hawkins* observes, that every person at the time of his arraignment ought to be used with all the humanity and gentleness which is consistent with the nature of the thing, and under no other terror or uneasiness than what proceeds from a sense of his guilt, and the misfortune of his present circumstances, and therefore ought not to be brought to the bar in a contumelious manner, as with his hands tied together, or any other mark of ignominy and reproach; nor even with fetters on his feet, unless there be some danger of a *rescous* or escape. (2 *Haw. c.* 28, s. 1.)

And the court ought to exhort him to answer without fear, and to acquaint him that he shall have justice done to him. (2 *Inst.* 316.)

Indictment read.

The indictment is now read, and in cases of *felony* this is a proceeding of the utmost consequence, because the prisoner, not being, as it seems, entitled to a copy [see "*Indictment*," Vol. III. p. 444,] has no other means of knowing the precise charge to which he is to answer. Even at the time when our judicial proceedings were written in Latin, the 37 *Edw. III. c.* 15, required that this important document should be done in English. The charge should be laid in the second person, and be read slowly and distinctly—as thus: "*You, A. B., stand indicted, by the name of A. B., late of, &c., in the county of, &c., for that you, on, &c.,*" reading the whole indictment in the same manner. If it be demanded by the prisoner, the indictment must be read so slowly as to enable his solicitor to take a copy as the officer proceeds—for the law entitles him to this privilege.

The reading of the indictment being concluded, the officer addresses the prisoner, "*How say you, A. B., are you guilty of the felony whereof you stand indicted, or not guilty?*" If the prisoner pleads guilty, the court may immediately record the plea, and either proceed immediately to give judgment, or examine witnesses as to the circumstances of the offence, for the guidance of their own discretion in determining on the sentence. But it is usual for the officer to explain to the prisoner the consequence of his plea, and to ask him again whether he persists in it; and there is a very prevalent practice among judges of assize of doing far more than this—of entreating the prisoner to withdraw his plea, admonishing him of his right to a trial, and manifesting the greatest reluctance to receive his open confession of guilt. How far this practice at sessions shall be adopted must be left to the good sense of the chairman. (*Dick. Sess. by Talfourd*, p. 340.)

3. *The Mode of Proceeding at Sessions.*

Plea—guilty.

If the prisoner has any matter to plead, either in abatement or bar of the indictment, as *misnomer*, *autrefois acquit*, *autrefois convict*, a pardon, &c., he shall plead it upon arraignment, without answering to the felony. (2 *Hale*, 219.)

For further information regarding the above pleas, see titles "*Abatement*," Vol. I., "*Misnomer*," Vol. III., "*Auterfois Acquit*," Vol. I., "*Auterfois Convict*," Vol. I., &c. And as to standing mute, see title "*Mute*," Vol. III., "*Plea*," *ante*, p. 210.)

If the prisoner plead not guilty, it was customary, before the enactment of the 7 & 8 Geo. IV. c. 28, s. 1, for the officer to ask him, "*How will you be tried?*" and to direct him to make answer, "*By God and my country;*" to which the officer then rejoined, "*God send you a good deliverance.*" These forms are, however, now abolished by the statute alluded to, which directs, that when a prisoner shall plead not guilty, he shall by such plea, without any further form, be deemed to have put himself on the country for trial, and the court shall, in the usual manner, order a jury for the trial of such person accordingly. The plea is, however, still recorded by the officer, who writes the words *ponit se* on the parchment record of the proceedings of the sessions.

Plea—not guilty.

The question, "*How will you be tried?*" may be well imagined to have been in former times of some importance, when it is remembered that trials by battle and ordeal were then in use, as well as by the country or a jury.

When a sufficient number of prisoners are arraigned, the petty jury are called on their panel by the clerk of the peace, in this manner: "*You good men that are returned and impannelled to try the issue joined between our sovereign lord the king and the prisoners at the bar, answer to your names, and save your fines;*" which done, and a full jury appearing, the clerk of the peace calls the prisoners to the bar, and informs them of their right to challenge, in these terms:—" *These good men, whose names you hear called, and who appear, are those who are to pass between our sovereign lord the king and you, upon your respective trials. If, therefore, you or either of you would challenge them, or any of them, you must challenge them as they come to the book to be sworn, before they are sworn, and you shall be heard.*"

Jury called.

Jury challenged.

This, then, is the proper time for the prisoner or for the prosecutor to make challenges; for no challenge is good until a full jury appear. (*R. v. Edmonds*, 4 *B. & Ald.* 471; and see, further, "*Jurors*," Vol. III. p. 517, &c.)

Every prisoner may desire the right of challenge separately; and if he demand his right in legal phrase, "*to sever in his challenges*," the other prisoners will be desired to withdraw, that he may make his challenges alone.

Severing challenge.

If there be a defect of jurors, a party intending to challenge the array may pray a *tales*, and then make his challenge. See Vol. III. p. 523.

Praying a tales.

As to *causes of challenge*, and other information on this head, see "*Jurors*," Vol. III. p. 517, &c.

The challenges being concluded, and the jury full, the clerk of the peace calls the jury to be sworn, every man severally; and this is done, in cases of felony, in the following manner:—

Jury sworn.

3. *The Mode of Proceeding at Sessions.*

In misdemeanor.

"You shall well and truly try, and true deliverance make, between our sovereign lord the king and the prisoners at the bar, whom you shall have in charge, and a true verdict give according to the evidence. So help you God."

In cases of misdemeanor, the jurors are sworn four at a time, in the following terms:—

"You shall well and truly try the issue joined between our sovereign lord the king and the defendant, and a true verdict give, according to the evidence. So help you God."

The crier then counts the jurors, as the clerk of the peace reads their names, and asks them *"are you all sworn."*

Proclamation.

After the jury are sworn, in cases of felony, the crier makes proclamation as follows:—

"If any one can inform my lords the king's justices, the king's attorney-general, or the king's serjeant, on this inquest now to be taken, of any felonies or misdemeanors done or committed by the prisoner at the bar, let him come forth, and he shall be heard; for the prisoner now stands at the bar on his deliverance; and they that are bound to prosecute and give evidence, let them come forth, and prosecute and give evidence, or they will forfeit their recognizances."

The form used in cases of misdemeanor is similar to the above, with the omission of the term *"felony,"* and the substitution of the word *"defendant"* for *"prisoner,"* and the omission of the standing at the bar, &c.

Prosecutors and witnesses called.

The prosecutor and his witnesses are then called by name, and, on appearance, take the places assigned them in court.

Opening case.

In cases of misdemeanor, the prosecutor's counsel now at once opens trial; but in felonies, another form yet remains,—it is termed *charging the jury.*

Jury charged.

All the prisoners, except one to be tried, are put from the bar, and the clerk of the peace charges the jury as follows:—

"The prisoner at the bar stands indicted by the name of A. B. [reading the indictment, as upon the arraignment]; upon this indictment he has been arraigned; upon his arraignment, has pleaded not guilty; and for his trial has put himself upon God and his country, which country you are. Your charge, therefore, is to inquire whether he be guilty of the felony whereof he stands indicted, or not guilty, and to hearken to the evidence."

Witnesses sworn.

The witnesses, as well for the king as the prisoner, are then sworn thus:—

"The evidence you shall give to the court and jury sworn, between our sovereign lord the king and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God."

Trial begins.

The trial then proceeds. if the case be one of misdemeanor, and there be two or more counsel for the prosecution, the substance of the indictment, which the jury have not yet heard, must be stated by the junior; in cases of felony, this is of course superfluous, the indictment having been already twice read in the hearing of the jury; and, although in former times it was observed, it is now, in sessions practice, generally disused. It often occurs at sessions, that the case is of so plain a nature as not to require opening; when this is not the case, however, it is opened by the leading counsel, according to his instructions.

Opening of case by counsel.

In treating of this important duty, Mr. Serjeant *Talfourd* observes, that it ought to be confined to a simple detail of the facts expected to be proved:—*"because the prisoner has no opportunity of laying his case before the jury by his counsel; and even the privilege of stating circumstances, however dryly, in such order and connection as may tend most directly to a particular conclusion is, in itself, no small advantage accorded to the prosecutor, and certainly should be exercised with great forbearance and caution. It is especially right for counsel to refrain from stating any part in the case, the proof of which, from his own brief, may appear doubtful; because he may thus produce an erroneous impression on the minds of uncultivated men, which the*

mere failure of the evidence may not remove, and on which the prisoner is generally quite unable to comment. For the same reason he should always forbear from stating confessions, which often turn out to be inadmissible; and should very rarely detail conversations, which are peculiarly liable to be misunderstood, and the whole bearing of which may be altered by the omission or transposition of a word. In cases of misdemeanor, the prosecuting counsel is not thus restricted, because here the defendant is allowed to make a real defence by his counsel, and, therefore, here the counsel for the prosecutor may not only state his facts, but reason upon them, and anticipate any line of defence which his opponent may probably adopt; but, even here, he should refrain from indulging in invective, and from appealing to the prejudices or passions of the jury; for it is neither in good taste nor in right feeling to struggle for a conviction, as an advocate in a civil cause contends for a verdict."

On an indictment against several persons, the counsel for the prosecution has a right before opening his case to the acquittal of any defendant he intends to call as a witness. (*R. & M.* 401.)

Acquittal of a defendant to make him a witness.

A prosecutor is never allowed personally to address the jury in the same manner as counsel; (see *R. v. Price*, 2 *B. & Ald.* 606; 1 *Chit. Rep.* 352, *S. C.*;) he can only be examined on his oath, in the box, like another witness. The cause, though instituted by him, is not considered *his* cause, but that of the crown; when no counsel, therefore, is engaged for the prosecution, there can be no opening; and the duty of examining the witnesses devolves on the chairman. In cases of felony, the depositions taken before magistrates are of much importance in assisting him in this duty; they ought, therefore, in all cases, to be returned by the magistrates before whom they were taken. In cases of misdemeanor, he can merely call on the witnesses upon the back of the indictment to be sworn, and give their own narrative.

Prosecutor not allowed to address the jury.

The reader who wishes for information respecting the parts of the charge to be established, the degree and nature of proof necessary, and the admissibility of witnesses, &c., is referred to title "*Evidence*," Vol. II.

Evidence.

On the case of the prosecution being closed, it is the duty of the chairman, in all cases where the prisoner has no counsel, and in cases of felony, though he has counsel, to ask him what he has to say in answer to the charge.

Case closed.

Before the recent stat. 6 & 7 Wil. IV. c. (a), it was always discretionary in the magistrate, before whom the depositions were taken, to let any one see them; even the party accused had no right to demand a copy of the depositions, though in cases of treason or felony he must have been put in possession of a list containing the names of the witnesses. (*Rex v. Holland*, 4 *T. R.* 691; 1 *Phill. Ev.* 7th ed. 427, 8.)

Copies of depositions to be allowed to defendant.

But by that act, s. 3, "all persons who after the passing of this act shall be held to bail or committed to prison for any offence against the law shall be entitled to require and have, on demand (from the person who shall have the lawful custody thereof, and who is hereby required to deliver the same), copies of the examinations of the witnesses respectively upon whose depositions they have been so held to bail or committed to prison, on payment of a reasonable sum for the same, not exceeding three-halfpence for each folio of ninety words: provided always, that if such demand shall not be made before the day appointed for the commencement of the assize or sessions at which the trial of the person on whose behalf such demand shall be made is to take place, such person shall not be entitled to have any copy of such examination of witnesses, unless the judge or other person to preside at such trial shall be of opinion that such copy may be made and delivered

(a) At the time of printing this part of the work, this statute had not received the royal assent. Should it not become law, it will be noticed in the Appendix.

3. *The Mode of Proceeding at Sessions.*

Prisoners entitled to inspect depositions on trial.

Defence, and prisoner's right to have counsel.

without delay or inconvenience to such trial; but it shall nevertheless be competent for such judge or other person so to preside at such trial, if he shall think fit, to postpone such trial on account of such copy of the examination of witnesses not having been previously had by the party charged."

Sect. 5. "All persons under trial shall be entitled, at the time of their trial, to inspect, without fee or reward, all depositions (or copies thereof) which have been taken against them, and returned into the court before which such trial shall be had."

On the case being closed and submitted to the jury, the defendant or his leading counsel, when allowed to be heard, is entitled to address them.

On an indictment for an offence under felony, the defendant always might be heard by counsel. (*Wood, Inst. B. 4, c. 5.*)

On an indictment for treason the defendant shall not have counsel allowed to him, unless a point of law arise proper to be debated; nor a copy of the indictment. (2 *Hawk. c. 39, s. 2, 13.*)

And before the 6 & 7 Wil. IV. the same rule applied on an indictment for felony, *id.* But now by that act, sect. 1, after the 1st of October, 1836, "all persons tried for felonies shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto, by counsel learned in the law, or by attorney in courts where attorneys practise as counsel."

And by sect. 2 of the same act, it is declared and enacted, "That in all cases of summary conviction, persons accused shall be admitted to make their full answer and defence, and to have all witnesses examined and cross-examined by counsel or attorney." See the former law on this subject, title "*Justices*," Vol. III., p. 506.

And upon the trial of issues, which do not turn upon the question of guilty or not guilty, but upon collateral facts, prisoners under a capital charge, whether for treason or felony, always were entitled to the full assistance of counsel. (*Fost. 232, 242*) (a).

Court to be of counsel with him.

If he has no counsel, the court is to be of counsel with the prisoner, and ought to advise him for his good, and not take advantage too strictly against him. (*Dalt. c. 185, p. 460.*)

(a) On this subject, of the office of counsel for a prisoner, and of the objections he might address to the court on the prosecutor's case, in cases before the statute 6 & 7 Wil. IV., we shall extract from Mr. *Talfourd's* work on *Sessions*:—"In cases of felony, the prisoner's counsel has never a right to address the jury on the merits of the case; but he may now submit to the bench any point of law arising on the evidence, or any absolute deficiency of proof as to a part of the charge, which may entitle his client to an acquittal. Thus, he may submit that there is no evidence of any part of the offence occurring within the county where the trial is had; that there is a substantial variance between some material allegation and the proof offered to support it; that the offence, supposing the evidence to be credible, does not amount in law to that which is charged, as that an appropriation charged as a larceny is a mere breach of trust, or an embezzlement; for these are matters which show that the prisoner ought not to be put

on his defence. He may sometimes submit that there is nothing for the jury to consider, as when the charge is not brought home to his client at all; and if the bench think so, they will direct an acquittal; but counsel will not be permitted to argue on the slightness of the evidence where there is any applicable to the prisoner, or to discuss questions which are properly for the jury, as questions of knowledge and intention. Where an objection is taken which the bench do not immediately overrule, the counsel for the prisoner are first heard in its support; the counsel for the prosecution then give their answer to it *seriatim*; and the leading counsel for the prisoner (if he has more than one) replies; after which the justices deliberate, and the chairman collects their votes, and announces their decision. Where the objection relates to the absence of some formal proof, which can be immediately supplied, the court always allows such proof to be given, for it will not permit justice to be defeated by a

On an indictment for a misdemeanor, it has been decided that the defendant cannot have the assistance of counsel to examine the witnesses, and reserve to himself the right of addressing the jury. (*R. v. Parkins*, 1 *C. & P.* 548; 3 *Camp.* 98; *Ry. & M.* 166, S. C.) But if he conduct his defence himself, and any point of law arises which he professes himself unable to argue, the court will hear it argued by his counsel. (*Id.*)

3. *The Mode of Proceeding at Sessions.*

The party accused may well be supposed to labour under many disadvantages, on being obliged to defend himself; any statement, therefore, which he may submit ought to be heard attentively and patiently; and although, as has been observed, it is not made on oath, and not supported by proof, still, if it carries with it the appearance of sincerity, and offers a reasonable explanation of the circumstances which seem to bear against him, it ought to be carefully weighed and candidly estimated by a jury.

The counsel for the defendant may comment on the case for the prosecution; he may adduce evidence to any extent, and even introduce new facts, provided he can establish them by witnesses. He cannot, however, assume as proved that which is not proved.

In cases of felony, the counsel for the prosecution never replies. In cases of misdemeanor, where witnesses are called (except merely as to character), the counsel for the prosecution has a right to reply in every instance, similar to that of a counsel in a civil action. If the witnesses are called merely to give evidence as to character, a usage has long prevailed among counsel in the highest criminal courts of forbearing to reply, which, however it originated, is now firmly established and acted on. But in the case of the *King v. Bignold*, 4 *D. & R.* 70; 1 *M. & M.* 85; *D. & R.*, N. P. 59, Lord *Tenterden* revived an important rule, originally promulgated by Lord *Kenyon*, and by which a reply is allowed to the counsel for the prosecution, if the counsel for the defendant, in his address to the jury, states any fact, or any document which is not already in evidence, although he afterwards declines to prove the fact, or put it in writing. But it would be scarcely fair, as has been remarked, to apply this rule to a statement made by a defendant in person, and unsupported by evidence.

Right of counsel to reply.

Upon an information for a misdemeanor, if the defendant calls no witnesses, the counsel for the prosecution, except in the case of the attorney-general, is not entitled to a reply. (*Peake's Case*, N. P. 3rd ed. 310; but see *R. v. Smith*, *Id.*, *semb. contr.*)

By one of the clauses in the bill which passed the House of Commons, in the seventh session of the present parliament, relative to counsel acting for prisoners in felony, it was proposed to be enacted, "that in all such cases of felony, and likewise in all cases of treason, misprision of treason and misdemeanor, if, after the close of the case for the person or persons accused, the counsel for the prosecution shall make any reply, the counsel for the person or persons accused shall be admitted to answer it." But this clause was struck out by the House of Lords.

It is the duty of the chairman, the case on both sides being closed, to sum up the evidence. His address ought to be free from all technical phraseology, the substance of the charge plainly stated, the attention of the jury directed to the precise issue to be tried, and the evidence applied to that issue. In cases of felony, it may be necessary to read over the whole evidence; if requested by the jury, this will of course be done, though, in general, it is better merely to state its substance.

Summing up.

Reading evidence.

If the jury cannot agree on their verdict at the bar, a bailiff must be sworn to keep the jury thus:—

Verdict.

mere accidental omission of counsel. *recommend*, but to *direct* the jury to acquit; and the officer ought immediately to take and record the verdict."

When the bench has decided that the case for the prosecution has failed in point of law, the chairman ought not to

3. *The Mode of Proceeding at Sessions.*

"You shall swear that you shall keep this jury without meat, drink, fire, or candle; you shall suffer none to speak to them, neither shall you speak to them yourself, but only to ask them whether they are agreed. So help you God." (*Dalt. c. 185, p. 406.*)

The jury coming back, the prisoner is brought to the bar; the names of the jury are called over, and the verdict taken as before. (*Dalt. c. 18, p. 460.*)

The officer then, in case of felony, desires the prisoner to hold up his hand, and addresses the jury—

"Gentlemen, are you agreed on your verdict? do you find the prisoner guilty of this felony whereof he stands indicted, or not guilty?"

The foreman then delivers the verdict, which, in cases of felony, can only be received in open court, and in the prisoner's presence, though the court may be adjourned during the deliberation. (*Co. Lit. 227.*)

In cases of misdemeanor it may be delivered elsewhere, and is often given in the defendant's absence. (*R. v. Woodfull, 5 Burr. 2667.*)

When the verdict is delivered, the officer proceeds to ask the same question as to the other prisoners, if there are any, included in the charge; and having received their answers in like manner, severally addresses them—

"Hearken to your verdict as the court recordeth it: you say *A. B.* is guilty [or, not guilty] of the felony whereof he stands indicted [and so of the others, if more than one]; this is your verdict, and so ye say all."

The verdict is at the same time recorded.

Proceedings on verdict of guilty.

The verdict of guilty having been returned, the prisoner, or the defendant, if present in court, is called upon to say why judgment should not be passed upon him. He may here offer something to the court in extenuation of his offence; or he may (says *Blackstone, 4 Com. 375*), at this period, as well as at his arraignment, offer any exceptions to the indictment, in arrest or stay of judgment; as, for want of sufficient certainty in setting forth either the person, the time, the place, or the offence. To this species of error alone the privilege is confined.

Sentence.

If nothing is offered in extenuation, or something so trifling as not to require further deliberation, sentence is generally passed immediately; proclamation having been made three times by the crier of the court, as follows:

"O yez, O yez,—All manner of persons are commanded to keep silence, whilst judgment is given against the prisoners at the bar, upon pain of imprisonment."

In trials for misdemeanors, this proclamation is not made, and in the less important cases of felony it is often omitted.

The prisoner is then placed at the bar, and sentence pronounced by the chairman. On the subject of this important part of a justice's public duty—in the exercise of which, as has been well remarked, the law has left the most to his discretion, with the fewest means of regulating his judgment—we subjoin a note by Mr. *Dickenson*, from his work on Sessions:—

"Where statutes have conferred upon individual magistrates, or even upon sessions, the authority of summary convictions, without the intervention of jurors, they have limited the penalties for the offences created or punished by them within narrow generally, but always within prescribed bounds; while, with respect to fines, imprisonment, and even transportation, they have, of necessity, perhaps left to them the same latitude of apportionment as to the judges of the superior courts, although frequently persons without the same professional experience, the same familiar acquaintance with the multiplied inducements to the commission of crimes, or the same means of discrimination respecting the effects of punishment. The present purpose is, therefore, to impress upon the minds of those who are only commencing their career in the public duties of magistracy, not merely the justice and humanity, and therefore the duty, but even the policy also, of

exercising the most unprejudiced and temperate discrimination in the distribution of punishments, on account of the salutary consequences which may reasonably be expected from it. The punishments ordained by municipal regulations may not improperly be designated by the epithets 'admonitory,' 'exemplary,' and 'vindictive.' To discriminate further than this, might perhaps incur the imputation of fanciful refinement; but thus far it may not be too much to insist. The first suggestions of common sense and common benevolence need not wait for the sanction of experiment, for they are to be found in the very rudiments of civilization. To the novice in delinquency, punishment is intended primarily to operate as an individual admonition; and where the heart has not been absolutely depraved, but only the passions excited, or the temerity of youth stimulated by excessive temptation or the influence of bad example, it will frequently have its due effect, if administered with that moderation which corrects without degrading. *Nemo repente turpissimus*, is an adage as true in point of fact as necessary to be kept in mind by those, whose rank and duties call upon them to mark with precision of punishment the deviation of ignorance and frailty from the path of rectitude. On a repetition of offences, where it is ascertained, indeed, that admonition has failed to correct, to deter, by making the culprit an example, becomes a duty to society: for compassion to the individual may then well give way to the general protection of the social system. Nevertheless, till amendment has become entirely hopeless, the severity of punishment should be short of that which cuts off all retreat from an association with the vicious. The third, and last, stage of depravity is that alone in which moderation may cease to be considered as an attribute of justice. In that extremity, society has an ample right to manifest its resentment; and the administrators of its laws are justified in becoming the ministers of its wrath; because cutting off (by removal or disgrace) the morbid member from the general body becomes the only method of preventing the communication of contagion."

3. *The Mode of Proceeding at Sessions.*

3. IN TRIALS OF TRAVERSES.

The trials for misdemeanors are not in general brought on till after the felonies. Traverses tried.

Then may be called the persons bound by recognizance at the last sessions, to prosecute their traverses at the present sessions. For if a person indicted for an assault or misdemeanor do appear, and plead not guilty, and traverse the indictment, he shall enter into his recognizance to prosecute his traverse at the next quarter sessions. For, in *Bumpsted's case*, *Cro. Car.* 448, the whole court was of opinion, that justices of the peace may not inquire, try, and determine civil offences, in one and the same day; for the party ought to have a convenient time to provide for the trial.

A defendant cannot be tried on any traverse until he shall have obtained from the clerk of the peace a record of the proceedings, and a *venire facias*, which he must get returned by the under-sheriff, and his traverse must afterwards be entered with the clerk of the peace.

Where a bill for an assault or misdemeanor is found against a defendant not in custody, he cannot be tried at the same session, unless under the 60 Geo. III., 1 Geo. IV. c. 4, or by the consent of the prosecutors. See "*Traverse*," *post*.

And, on the trial of a traverse, the defendant must appear in the court, at the bar, in his proper person; and then the indictment is read to the jury: and the prosecutor and his witnesses are called to give evidence, and are heard; and if the defendant be found guilty, the court sets a fine upon him adequate to the offence, or other punishment as the law directs.

In cases of assault, the court frequently recommends the defendant to talk with the prosecutor,—that is, to make him amends for the injury done him; and if the prosecutor come and acknowledge a satisfaction received, the court will set a small fine on the defendant.

"But this," says *Blackstone*, "surely is a dangerous practice; and, though

4. *The Jurisdiction, &c. of the Sessions.*

it may be entrusted to the prudence and discretion of the judges in the superior courts of record, it ought never to be allowed in local or inferior jurisdictions, such as the quarter sessions; where prosecutions for assaults are by this means too frequently commenced, rather for private lucre than for the great ends of public justice. Above all, it should never be suffered where the testimony of the prosecutor himself is necessary to convict the defendant; for by this means the rules of evidence are entirely subverted: the prosecutor becomes in effect a plaintiff, and yet is suffered to bear witness for himself. See "*Award*," Vol. I.

Sometimes the prosecutor and defendant agree before the defendant pleads to the indictment; and then the defendant comes into court in his proper person, and pleads guilty to the indictment; and upon proving, by a subscribing witness, a general release executed by the prosecutor, the defendant submits to a small fine, such as the court is pleased to impose. (*Cro. Cir. C. 21.*)

There are frequent prosecutions at the sessions for trifling assaults; in which case it is advisable for a defendant not to put himself to the expense of trying the indictment, but to give notice to the prosecutor that he intends to plead guilty to the indictment; in which case the prosecutor attends the court with his witnesses, and gives evidence of the nature of the offence; and then the court proceeds to fine the defendant: but the court will admit the defendant to call such witnesses as he desires, and will examine them by way of mitigation. (*Cro. Cir. C. 22.*)

For information as to traverses generally, see title "*Traverse*," *post*.

4. IN HEARING OF APPEALS.

In appeals.

See Vol. I., title "*Appeal*."

IV. *The Jurisdiction, Powers, and Duties of the Sessions.*

1. IN WHAT MATTERS.

Criminal and civil.

The court of quarter sessions has a jurisdiction criminal and civil, given to it by the commission of the peace itself, as settled under the 18 Edw. III. c. 2, and 34 Edw. III. c. 1, and by the express provisions of numerous statutes.

Criminal jurisdiction.

1. CRIMINAL JURISDICTION.—As far as respects its jurisdiction to hear and determine indictments, it appears to derive its origin from the 18 Edw. III. c. 2, and 34 Edw. III. c. 1, already mentioned.

These statutes are as follow:—

18 Ed. 3, s. 2, c. 2.

18 Edw. III. s. 2, c. 2.—"Item, that two or three of the best of reputation in the counties shall be assigned keepers of the peace by the king's commission; and, at what time need shall be, the same, with other wise and learned in the law, shall be assigned by the king's commission to hear and determine felonies and trespasses done against the peace in the same counties, and to inflict punishment reasonably, according to law and reason, and the manner of the deed."

Who shall be justices of the peace, and what authority they shall have.

34 Edw. III. c. 1.—"First, that in every county of England shall be assigned, for the keeping of the peace, one lord, and with him three or four of the most worthy in the county, with some learned in the law, and they shall have power to restrain the offenders, rioters, and all other barrators, and to pursue, arrest, take, and chastise them, according to their trespass or offence; and to cause them to be imprisoned and duly punished, according to the law and customs of the realm, and according to that which to them shall seem best to do by their discretions and good advisement; and also to inform them, and to inquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering, and will not labour as they were wont in times past, and to take and arrest all those that they may find by indictment, or by suspicion, and to put them in

prison; and to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people, and the other duly to punish, to the intent that the people be not by such rioters or rebels troubled nor endamaged, nor the peace blemished, nor merchants nor other passing by the highways of the realm disturbed, nor put in the peril which may happen of such offenders. And also to hear and determine at the king's suit all manner of felonies and trespasses done in the same county according to the laws and customs aforesaid; and that writs of *oyer* and *determiner* be granted according to the statutes thereof made, and that the justices which shall be thereto assigned be named by the court, and not by the party. And the king will, that all general inquiries before this time granted within any seigniorities, for the mischiefs and oppressions which have been done to the people by such inquiries, shall cease utterly and be repealed; and that fines, which are to be made before justices for a trespass done by any person, be reasonable and just, having regard to the quantity of the trespass, and the causes for which they be made."

4. *The Jurisdiction, &c. of the Sessions.*

Justices of peace may hear and determine felonies and trespasses.

At first, as we have seen, *ante*, Vol. III. p. 539, the justices were only conservators of the peace, and the subsequent power to hear and determine, given by these statutes, means only that such an authority may be delegated to them by commission. (1 *Bla. Com.* 351; *R. v. Carter*, 1 *Stra.* 442.) For this reason it is that a caption of an indictment found at the sessions, must show that the commission gave the court jurisdiction over the offence, as this cannot be intended. (*R. v. Carter*, 1 *Stra.* 442.) It has been said, that the commission of the peace was altered into the present form immediately after making those statutes; (*R. v. Carter*, 1 *Stra.* 442; 1 *Bla. Com.* 351); but some authors state, that it was settled as we find it at present by the judges about the thirty-third year of Queen Elizabeth. (2 *Haw. c.* 8, s. 8.) The jurisdiction over indictments may be collected from the terms of the commission, which we shall here again set out, so far as it relates to the power of justices in sessions:—The first part of the commission will be found, Vol. III. p. 541. The second part is as follows:

Commission of the peace.

"We have also assigned you, and every two or more of you (of whom any one of you, the aforesaid A. B., C. D., &c., we will shall be one), our justices, to inquire the truth more fully, by the oath of good and lawful men of the aforesaid county, by whom the truth of the matter shall be the better known, of all and all manner of felonies, poisonings, enchantments, sorceries, arts magic, trespasses, forestallings, regratings, ingrossings, and extortions whatsoever; and of all and singular other crimes and offences of which the justices of our peace may or ought lawfully to inquire, by whomsoever and after what manner soever in the said county done or perpetrated, or which shall happen to be there done or attempted; and also of all those who, in the aforesaid counties, in companies against our peace, in disturbance of our people, with armed force, have gone or rode, or hereafter shall presume to go or ride; and also of all those who have there lain in wait, or hereafter shall presume to lie in wait, to maim, or cut, or kill our people; and also of all victuallers, and all and singular other persons, who, in the abuse of weights or measures, or in selling victuals, against the form of the ordinances and statutes, or any one of them, therefore made for the common benefit of England, and our people thereof, have offended or attempted, or hereafter shall presume in the said county to offend or attempt; and also of all sheriffs, bailiffs, stewards, constables, keepers of gaols, and other officers, who, in the execution of their offices about the premises, or any of them, have unduly behaved themselves, or hereafter shall presume to behave themselves unduly, or have been or shall happen hereafter to be careless, remiss, or negligent, in our aforesaid county; and of all and singular articles and circumstances, and all other things whatsoever, that concern the premises, or any of them, by whomsoever and after what manner soever in our aforesaid county done or perpetrated, or which hereafter shall there happen to be done or attempted in what manner soever; and to inspect all indictments whatsoever so before you, or any of you, taken or to be taken, or before others, late our justices of the peace in the aforesaid county, made or taken, and not yet determined; and to make and continue processes thereupon against all and singular the persons so indicted, or who before you hereafter shall

Form of commission as to sessions.

4. *The Jurisdiction, &c. of the Sessions.*

happen to be indicted, until they can be taken, surrender themselves, or be outlawed; and to hear and determine all and singular the felonies, poisonings, enchantments, sorceries, arts, magic, trespasses, forestallings, regratings, ingrossings, extortions, unlawful assemblies, indictments aforesaid, and all and singular other the premises, according to the laws and statutes of England, as in the like case it has been accustomed or ought to be done; and the same offenders and every of them, for their offences by fines, ransoms, amerciaments, forfeitures, and other means, as, according to the law and custom of England, or form of the ordinances and statutes aforesaid, it has been accustomed or ought to be done to chastise and punish.

“ Provided always, that if a case of difficulty upon the determination of any of the premises before you, or any two or more of you, shall happen to arise, then let judgment in no wise be given thereon before you, or any two or more of you, unless in the presence of one of our justices of the one or other bench, or of one of our justices appointed to hold the assizes in the aforesaid county.

“ And therefore we command you, and every of you, that to keeping the peace, ordinances, statutes, and all and singular other the premises, you diligently apply yourselves; and that at certain days and places which you, or any such two or more of you as is aforesaid, shall appoint for these purposes, into the premises ye make inquiries; and all and singular the premises hear and determine, and perform and fulfil them in the aforesaid form, doing therein what to justice appertains, according to the law and custom of England; saving to us the amerciaments and other things to us therefrom belonging.

“ And we command, by the tenor of these presents, our sheriff of W., that at certain days and places which you, or any such two or more of you as is aforesaid, shall make known to him, he cause to come before you, or such two or more of you, as aforesaid, so many and such good and lawful men of his bailiwick (as well within liberties as without), by whom the truth of the matter in the premises shall be the better known and inquired into.

“ Lastly, we have assigned to you the aforesaid A. B., keeper of the rolls of our peace in our said county: and therefore you shall cause to be brought before you and your said fellows, at the days and places aforesaid, the writs, precepts, processes, and indictments, aforesaid, that they may be inspected, and, by a due course, determined, as is aforesaid.”

Comments on the commission.

*We have also assigned you and every two or more of you.]—*Here beginneth the second part of the commission, or the second assignment: all the business within which assignment belongeth to the sessions of the peace. (*Dalt. c. 5.*)

Must be two justices.

And by this it appeareth, that two justices may hold a sessions, but that one justice cannot. (*Crompt. 6, 7.*)

Justices of quorum.

*Of whom any one of you the aforesaid A. B., C. D., &c. we will shall be one.]—*This clause, which gives power to two or more justices to hear and determine offences, requires that at least one of those justices be of that select number, which is commonly termed of the *quorum* (from that word in the Latin commissions, *Quorum,—unum esse volumus*). For those of the *quorum* were wont to be chosen specially for their knowledge in the laws; and this was it which led the makers of several ancient statutes expressly to enact, that some learned in the laws should be put into the commission of the peace; and (to say the truth) all statutes that require the presence of the *quorum* do tacitly signify such a learned man. For, albeit that a discreet person (not conversant in the study of the laws) may sufficiently follow sundry particular directions concerning the service of the peace, yet when the proceedings must be by way of presentment or indictment, upon the evidence of witnesses, and oaths of jurors, and by the order of hearing and determining according to the straight rule and course of the law, it must be confessed that learning in the law is very necessary. (*Lamb. 48, 49.*)

But learning being now greatly advanced and improved since the first institution of this office, this distinction is not of much use, but all or most of the justices are now equally assigned to be of the *quorum*; and by the 26 Geo. II. c. 27, no act, order, adjudication, warrant, indenture of apprenticeship, or other instrument done or executed by two or more justices, which doth not express that one or more of them is of the *quorum* (although the

statutes respectively require that one of the justices shall be of the *quorum*,) shall be impeached, set aside, or vacated, for that defect only.

And by the 7 Geo. III. c. 21, in cities, boroughs, towns corporate (a), franchises, and liberties, which have only one justice of the *quorum*, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, done or executed by two or more justices qualified to act therein, shall be valid and effectual in law, although neither of the said justices are of the *quorum*.

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7 Geo. 3, c. 21.

And now the 4 Geo. IV. c. 27, after reciting the 7 Geo. III. c. 21, "and whereas it is expedient that the provisions of the said act should be extended to such cities and other jurisdictions as have two or any other limited number of justices of the *quorum* qualified to act within the same;" enacts, "that, from and after the passing of this act, in all cases where the number of justices of the peace for any city, borough, town corporate (a), franchise, liberty, or other local jurisdiction is limited, and any one, two, or more of such justices only are of the *quorum*, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made, done, or executed, either in or out of the general quarter sessions or petty sessions, or any adjournment thereof, by virtue of any charter or grant, or by virtue of any act of Parliament made or to be made, by any two or more justices of the peace acting within the same, though neither of the said justices be of the *quorum*, shall be valid in law, to all intents and purposes, as if the said justices had been of the *quorum*; any grant, charter, law, or custom to the contrary thereof in anywise notwithstanding."

4 Geo. 4, c. 27.

In the *Queen v. The Bailiffs of Ipswich*, 2 *Ld. Raym.* 1232, Lord Holt, C. J., lays it down, that unless a commission of the peace nominates a *quorum* all the justices appointed by it must attend at a sessions. And see 9 *B. & Cres.* 859.

By the oath of good and lawful men.]—That is, by a jury sworn.

Jury sworn.

Of all and all manner of felonies.]—That is, either by the common law or by statute. (*Crompt.* 8.)

Felonies.]—Though the commission doth not mention murders and man-slaughters by express name, but only felonies generally, yet by these general words they have power to hear and determine murder and manslaughter, and also may take an indictment of *se defendendo*, contrary to the opinions of *Fitzherbert* and *Staundforde*. But though the justices have this power, yet they do not ordinarily proceed to hear and determine these offences, and rarely other offences without clergy, both because of the monition and clause in their commission, in case of difficulty to expect the presence of the justices of assize; and also because of the direction of the 1 & 2 P. & M. c. 13, [now the 7 Wil. IV. c. 64, s. 2, *post*, "*Examination*," Vol. II. p. 116], which directs justices of the peace, in case of manslaughter and other felonies, to take the examination of the prisoner and the information of the fact, and put the same in writing, and then to bail the prisoner, if there be cause, and to certify the same with the bail at the next gaol delivery: and, therefore, in cases of great moment, they bind over the prosecutors, and bail the party, if bailable, to the next gaol delivery; but in smaller matters, as petit larceny, and some cases within clergy, they bind over to the sessions: but this is only in point of discretion and convenience, not because they have not jurisdiction of the crime. (2 *Hale*, 46.)

Felonies.

So, also, an inquisition of self-murder, if the body cannot be seen, and so not inquired of by the coroner, may be taken before justices of the peace; for it is a felony, and within the extent of their commission. (1 *Hale*, 414.)

So, also, if a person hath committed treason, though the justices have no cognizance of it as treason, yet they have cognizance of it as a felony, and as a breach of the peace; and, therefore, a justice of the peace, upon infor-

(a) See now the new municipal corporation act, 5 & 6 Wil. IV. c. 76, title "*Corporation*," Vol. I.

4. *The Jurisdiction, &c. of the Sessions.*

Treason.

mation on oath, may issue his warrant to take the traitor, and may take his examination, and commit him to prison. (1 *Hale*, 580.)

High treason is not mentioned in the commission, and, therefore, the quarter-sessions have no jurisdiction to try that offence, though the justices may commit the offender to take his trial before a higher tribunal. (2 *Hale*, 44; 2 *Haw.* c. 8, s. 59; *Bac. Ab. Justices of Peace, E.*; *Dick. Sess.* 104.)

They had formerly, however, the power, under some ancient statutes, of hearing and determining particular kinds of treason, and it seems doubtful whether they may not now try prisoners for clipping coin, for it may be questioned whether the 3 *Hen. V. c. 7*, is repealed; and Mr. *Curwood*, in his edition of *Hawkins*, recognizes that statute as still existing. (See 2 *Haw. P. C.* 55; see, however, 2 *H. P. C.* 45.)

Not the practice to try capital felonies.

But although the justices in sessions have thus jurisdiction over almost all felonies, it is not the practice for them to try any capital felonies (a).

And it is now the common practice to try only petty larcenies and misdemeanors in this court; and felonies of a higher nature, as murders and felonies, are usually remitted for a more solemn trial to the assizes. (4 *Bla. Com.* 271, n. 2, 234, n. 6; 2 *Hale*, 46; 2 *Haw.* c. 8, s. 57; *Bac. Ab. Justices of the Peace, E.* 2; *Cro. C. C.* 14; *Dick. Sess.* 104, 5.)

But they have the power.

The sessions, however, have jurisdiction over capital offences of this nature; and, if they do proceed to judgment, in cases of difficulty, their judgment is not void, but is effectual till reversed for real error by a superior tribunal. (*Lamb.* 50; 2 *Hale*, 46.)

When sessions included in description of courts.

An indictment lies at the quarter-sessions for lighting fires on the coast, contrary to 47 *Geo. III. sess. 2, c. 66*; for, though in one section "the general quarter-sessions" is omitted, yet it being in other parts of the act, the omission was merely a mistake. (*R. v. Cock*, 4 *M. & Sel.* 71; see further, *Archb. Sessions*, p. 6.)

Poisonings.

Poisonings.]—The word in the Latin commissions was *veneficia*; and before the 9 *Geo. II. c. 5*, which abolisheth witchcraft, was in the English translations rendered witchcrafts.

Witchcraft, &c.

Enchantments, Sorceries, Arts, Magic.]—These also are abolished by the said statute, s. 3, which enacts, that no prosecution shall thereafter be commenced against any person for witchcraft, sorcery, incantment, or conjuration.

And, from the words continuing in the commission when the crime itself is abolished, we may observe the averseness in the superior courts from altering ancient forms.

Trespases.

Trespases.]—This is founded on the 34 *Edw. III. c. 1*, which enacts that the justices assigned shall have power to restrain the offenders, rioters, and all other barrators, and to chastise them according to their trespass or offence. The word for trespases, in the old Latin commissions, is *transgressionibus*.

All inferior offences.

And upon this Mr. *Hawkins* observes, that the word trespass is of very general extent, and in a large sense not only comprehends all inferior offences, which are properly and directly against the peace, as assaults and batteries, and such like, but also all others which are so only by construction, as all breaches of the law in general are said to be. Yet it hath been of late settled, that justices of the peace have no jurisdiction over forgery or perjury at the common law; the principal reason of which resolution, he says, as he apprehended, was, that, inasmuch as the chief end of the institution of the office of these justices was for the preservation of the peace against personal wrongs and open violence, and the word trespass, in its

Forgery or perjury at common law not triable at sessions

(a) In sessions holden under charters, usual before the municipal corporation where the *power of life and death*, according to the peculiar expression, was specifically entrusted to the judges, it was act, 5 & 6 *Wil. IV. c. 76*, to try capital felonies. See title "*Corporation*," Vol. I.

most proper and natural sense, is taken for such kind of injuries, it shall be understood in that sense only in the said statute and commission, or at the most to extend to such other offences only as have a direct and immediate tendency to cause such breaches of the peace, as libels, and such like, which on this account have been adjudged indictable before justices of the peace. (2 *Haw. c. 8, s. 38.*)

These exceptions, however, alluded to by Mr. *Hawkins*, are now considered to rest more upon authority than principle. (*R. v. Higgins, 2 East, 15, 18, 20, post.*)

The particular provisions of the 5 *Eliz. c. 9*, are such, that if the offence of perjury be indicted under that statute (which rarely, if ever, happens), the justices have jurisdiction over it by the express words of the statute. (*Reg. v. Yarrington, 1 Salk. 406; 4 Bla. Com. 271, n. 11.*) See *ante*, "Perjury."

The term *trespasses* in the commission, subject to these exceptions, not only includes direct breaches of the peace, but also all such offences as have a tendency thereto, and, on that ground, conspiracies have been holden to be cognizable by the sessions, not as actual breaches of the peace, but as tending to produce them. (*R. v. Higgins, 2 East, 22, 23; R. v. Rispal, 1 Bla. Rep. 368; 3 Burr. 1320, S. C.; Haw. b. 2, c. 8, s. 63; Dick. Sess. 105.*) And, for the same reason, to solicit a servant to steal his master's goods is a misdemeanor, though it be not charged in the indictment that the servant stole the goods, nor that any other act was done, except the soliciting and inciting; and such offence is indictable at the sessions, having a tendency to a breach of the peace. (*R. v. Higgins, 2 East, 5, post.*)

So they have a jurisdiction over cheats in general. (*R. v. Brayne, and R. v. Beale, 1 East, 183, n.*)

Though they cannot take cognizance of forgery as a cheat; and therefore, where objections were taken to an indictment, for having placed or forged the letters R. E. at the bottom of a certain schedule, that the substantial charge, if any, was the commission of a forgery, an offence which the quarter-sessions have no jurisdiction to try; first, because in cases of misdemeanor, they can only try breaches of the peace, or such acts as have a manifest tendency thereto, and the word "*trespasses*," in the commission of the peace (the only word under which the jurisdiction could be sustained, if at all), has always had that construction; and, secondly, that whenever the sessions have exercised jurisdiction over any other description of misdemeanor, it has, by virtue of particular statutes, given them such jurisdiction in express terms: it was held, that as in effect it was an indictment for forgery, it was a case in which a court of general quarter-sessions of the peace for a county had no jurisdiction. (*R. v. Gibbs, 1 East, 173.*)

Nor can they determine an indictment for gaming, on the 18 *Geo. II.* (*R. v. Frederick, 2 Ld. Ken. 116.*) See "*Gaming*."

But their jurisdiction extends to assaults and batteries, *Haw. b. 2, c. 8, s. 63; Bac. Ab. Justices of the Peace, E. 3; barratry, 2 Saun. 308, n.; 2 Haw. c. 8, s. 65; Bac. Ab. Justices of Peace, E. 3; libels, R. v. Summers, 3 Salk. 194; 1 Lev. 139, S. C.; 2 Haw. c. 8, s. 64; night-walking, and haunting of bawdy-houses, 2 Haw. c. 8, s. 64.*

Forestallings, Regratings, Ingrossings.]—Over these offences, the justices in sessions had jurisdiction given to them by the 5 & 6 *Edw. VI. c. 14*, which is now repealed; but the same still continue offences punishable by indictment at the common law. See "*Forestalling*," Vol. II.

Extortions.]—The intent of this word is, to inquire of those who have done excessive wrongs; for wrong done by any one is properly trespass, but excessive wrong done by any one is called extortion; and this is more properly in officers, as sheriffs, mayors, bailiffs, escheators, and other officers whatsoever (as well spiritual as temporal), who, by colour of their office, have done great oppression and excessive wrong to the king's subjects, in taking excessive rewards or fees for doing their offices. (*Crompt. 8.*)

The justices have no express power given to them over this offence by

4. *The Jurisdiction, &c. of the Sessions.*

Perjury by statute.

Conspiracies.

Solicitations.

Cheats.

Forgery.

Gaming.

Assaults,

Barratry,

Libels, &c.

Forestallings, &c.

Extortions.

4. *The Jurisdiction, &c. of the Sessions.*

Other crimes, &c.

Riots, &c.

Weights and measures.

Selling victuals.

Officers misbehaving themselves.

Indictments laid before others.

Processes.

Party not appearing, &c.

Outlawry.

any statute; upon which Mr. *Hawkins* observes, that justices of the peace have jurisdiction of all inferior crimes within their commission, whether such crimes be mentioned in any statute concerning them or not; for that all such crimes are either directly or at least by consequence and judgment of law against the peace; and upon this ground principally, he says, as he apprehended, it was lately resolved, that they may take an indictment of extortion. (2 *Haw.* c. 8, s. 39.)

And of all and singular other crimes and offences of which the justices of our peace may or ought lawfully to inquire.—Which general words seem to include the vast number of offences, over which they have a jurisdiction given them by many statutes, and which are not particularly mentioned in the commission.

And also all of those who in Companies against our Peace in Disturbance of our People with armed Force have gone or rode.—By these words they are to inquire of riots, routs, and all unlawful assemblies. (*Crompt.* 8.) See ante, "*Riot.*"

Weights or Measures.—This clause was first established by the 34 *Edw.* III. c. 5. And they have further power given herein by several subsequent statutes, all which statutes must be strictly pursued in relation to the several offences. See post, "*Weights and Measures.*"

Selling Victuals.—Over this they had a jurisdiction given to them by the 2 & 3 *Edw.* VI. c. 15, intituled, "The Bill of Conspiracies of Victuallers and Craftsmen." But that act is repealed by the 5 *Geo.* IV. c. 95.

And also of all Sheriffs, Bailiffs, Stewards, Constables, Keepers of Gaols, and other Officers, who in the execution of their Offices have unduly behaved themselves.—This clause is as ancient as the 4 *Edw.* III. c. 2, on which it is founded.

And it hath been suffered to remain in the commission, not as of any necessity at all (since it is incident to every court of record to do correction upon whatsoever officers and ministers do serve them), but only for the plainer declaration of the power of these justices in that behalf, and for the more assured terrifying of such as shall, either of contempt or negligence, do that which is amiss. (*Lamb.* 49; see *R. v. Jaram*, 7 *D. & R.* 163, post.)

And to inspect all Indictments so before you taken.—But they cannot proceed upon indictments taken before coroners, or justices of oyer and terminer or gaol delivery, but on indictments taken before the sheriff in his tourn they may proceed. (*Hale's Sum.* 168.)

Or before other our late Justices.—This is founded on the 11 *Hen.* VI. c. 6, which enacts that no indictment, plea, suit, or process, shall be discontinued by a new commission; but the justices in the new commission, after they shall have the records of the same pleas and processes before them, shall have power to continue the said pleas and processes, and to hear and finally determine the same, as the former justices might have done.

And to make and continue Processes.—This is by *venire*, *distringas*, *capias*, or *exigent*, as the case shall be. And it differs from a warrant, in that a warrant is only to attach and convene the party before indictment, and may be either in the name of the king or of the justice; but the process issues after indictment, and must be in the name of the king only. (*Dalt.* c. 193.)

Until they can be taken, surrender themselves, or be outlawed.—For the process is sent out to this end, that either the party shall come in to answer and to be justified by the law; or else that he shall, for his contumacy, be deprived of the benefit of the law. (*Lamb.* 521.)

Or be outlawed.—It is observable that the power of the justices stops here, and goes no further; so that they cannot make out a *capias utlagatum*, but the outlawry must be certified into the King's Bench. (*Lamb.* 521; 2 *Hale*, 52.)

But by 12 *Rep.* 103, they that have power to award process of outlawry have also a power to award a *capias utlagatum*, as incident to their authority and jurisdiction.

Hear and Determine.]—This power was first given to them by the 18 Edw. III. st. 2, c. 2, and afterwards confirmed and enlarged by divers other statutes.

Yet this clause doth not in propriety make the justices of the peace justices of oyer and terminer, because that is a distinct commission; and, therefore, a statute, limiting an offence to be heard and determined before justices of oyer and terminer, gives not the power therein to justices of the peace. (*Hale's Sum.* 165, *infra*.)

And thereupon, it is said, that although they have power to hear and determine felonies, yet they cannot deliver a person suspected thereof by proclamation (as justices of gaol delivery may) until an inquisition taken; but if an inquisition be taken, and an *ignoramus* found, they may deliver him, as it seemeth. (2 *Hale*, 46, 47.)

Likewise, although commissioners of oyer and terminer may indict and try at the same sessions, yet it hath been ruled otherwise in cases of justices of the peace, unless by consent: but certainly constant usage and learned opinion must give that exposition upon those resolutions, that it must extend only to popular actions or indictments for misdemeanors, and not to cases of felony. (2 *Hale*, 48.)

By Fines, Ransoms, Amerciaments, Forfeitures, and other Means, to chastise and punish.]—Hereby the justices are now armed with far more ample authority and power than the ancient conservators of the peace were; for they had no power to convene the offender before them, nor to examine, hear, or determine the cause, nor to punish, except in some few cases, as mentioned before. (*Dalt.* c. 6.)

But the justices may not award any recompense to the party wronged, otherwise than by persuasion. (*Dalt.* c. 5.)

Nevertheless, these words are inserted, not as of necessity (for the punishment of all offenders is implied in the word *determine*), but for the plainer declaration of the justices' power, and for the more assured terrifying of offenders. (*Lamb.* 49.)

If a Case of Difficulty shall happen to arise.]—That is, a difficulty in point of law. (*Cromp.* 6; *vide post*, 617.)

Then let Judgment in nowise be given.]—But yet, if they list to proceed without the judge's advice, their judgment is not void: but it standeth good and effectual, until it be reversed by a superior court. (*Lamb.* 50.)

At certain Days and Places.]—That is, when they hold their sessions, which they are empowered and required to do by several statutes.

Lastly, we have assigned you, the aforesaid A. B., Keeper of the Rolls.]—This is in pursuance of the 37 Hen. VIII. c. 1, which enacts, that the lord chancellor shall, by commission, assign such person to be *custos rotulorum*, as the king shall by writing, under his hand, appoint. See, *ante*, "*Custos Rotulorum*," Vol. I.

It seems to be now clear that justices of the peace may try offences, though created by statute since the institution of their office, unless there be some special direction that the offence shall be heard and determined before another tribunal (*a*).

Where, indeed, a statute limits an offence to be tried before justices of oyer and terminer, the sessions cannot try it; for, though justices of the peace are authorized to hear and determine, they are not what the law intends by justices of oyer and terminer, as there is a distinct commission of that name. (1 *Hale*, 165.) Where, however, a statute creates a misdemeanor, and directs that the offender shall be committed unto the next court of oyer and terminer, great session, or gaol delivery, and, in case of indictment found, shall plead, and be tried without traverse, he may be prosecuted at the court of quarter-sessions. (*The King v. Cock*, 4 M. &

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Power to hear and determine.

How far a court of oyer and terminer.

Power to fine, &c., and punish.

In difficult cases not to give judgment.

Days of holding sessions.

Custos rotulorum.

General observations.

(a) See the *King v. Cock*, 4 M. & this decision seems conclusive on the *Sel.* 71. The contrary is laid down in some of the books; but the principle of

4. *The Jurisdiction, &c. of the Sessions.*

Sel. 71.) In the result, it appears that the sessions have power to try all indictable offences, whether by common law or statute, with the exception of treason, misprision of treason, *præmunire*, forgery, and perjury, at common law; and the two last exceptions are not capable of being referred to any principle, as the reason assigned, that they do not *directly* tend to produce breaches of the peace, would equally apply to many other offences over which the sessions have undoubted jurisdiction. In a case where a question was raised, whether the sessions had power to try an indictment for a solicitation of a party to steal (*a*)—Lord *Kenyon* said, “I am clearly of opinion, that it is indictable at the quarter-sessions, as falling in with that class of offences which, being violations of the law of the land, have a tendency, as has been said, to a breach of the peace, and are, therefore, cognizable by that jurisdiction. To this general rule there are indeed two exceptions—forgery and perjury: why excepted, I know not; but, having been expressly so adjudged, I will not break through the rules of law. No other exceptions, however, have been allowed; and, therefore, this falls within the general rule.” (*Talf. Dick. Sess. 89.*)

Central criminal court jurisdiction.

Central Criminal Court.]—As to the jurisdiction of the Central Criminal Court, see “*Central Criminal Court*,” Vol. I.

Borough sessions jurisdiction.

Borough and Corporate Town Sessions, &c.]—As to the jurisdiction of sessions held in boroughs and towns corporate, &c., since the municipal corporation act, see “*Corporations*.”

Jurisdiction of sessions in London, Westminster, Middlesex, Essex, Kent, and Surrey, restrained.

Jurisdiction of Sessions in London and Westminster, Middlesex, Essex, Kent, and Surrey, taken away over certain Offences.]—“The justices of the peace acting in and for the said cities of London and Westminster, the liberty of the Tower of London, the borough of Southwark, and the counties of Middlesex, Essex, Kent, and Surrey, shall not, at their respective general or quarter-sessions of the peace or any adjournment thereof, try any person or persons charged with any capital offence, or with any of the following offences committed or alleged to be committed within the limits of this act, (see sect. 2); that is to say, house-breaking, stealing above the value of five pounds in a dwelling-house, horse-stealing, sheep-stealing, cattle-stealing, maliciously wounding cattle, bigamy, forgery, perjury, conspiracy, assault with intent to commit any felony, administering or attempting to administer poison with intent to kill or to do some grievous bodily harm, administering drugs or other things, or doing any thing with intent to cause or procure abortion, manslaughter, destroying or damaging ships or vessels, the breaking of shops, warehouses, counting-houses, and buildings within the curtilage of dwelling-houses, killing sheep with intent to steal the carcasses, the uttering of all forged instruments, and the various offences enumerated in the 1 Wil. IV. c. 66, title “*Forgery*,” Vol. II., and all the offences relating to coin enumerated in the 2 Wil. IV. c. 34, title “*Coin*,” the abduction of women, bankrupts not surrendering under their commission or concealing their effects, breaking down bridges and banks of rivers, taking rewards for helping to stolen goods, personating any officer, seaman, or other persons in order to receive any wages, pay, allowance, or prize money due or supposed to be due, or any out-pensioner of Greenwich hospital in order to receive any out-pension allowance due or supposed to be due, sending threatening letters and using threats to extort money, larceny on navigable rivers and canals, and stealing and destroying goods in progress of manufacture, and larcenies after a previous conviction, embezzlement, larceny by clerks and servants, and receivers of stolen goods, whether such person or persons shall be charged as principal offenders or as accessories before or after the fact.” 4 & 5 Wil. IV. c. 36, s. 17. See “*Central Criminal Court*,” Vol. I.

(*a*) *The King v. Higgins*, 2 *East's R.* 18. To this exception the case of *usury* should be added, according to the *Queen v. Smith*, 2 *Ld. Raym.* 1144; but it is not now usual to proceed criminally for usury; and the principle of the modern cases is clearly at variance with the old decision.

The jurisdiction of the sessions of the peace as to *taking or finding* indictments is not, it will be seen, affected by the above statute; the sessions may proceed as heretofore, up to the taking of the indictment, in all the cases before enumerated as were before within their jurisdiction, but the trial must take place in the Central Criminal Court.

4. *The Jurisdiction, &c. of the Sessions.*

2. CIVIL JURISDICTION.]—The *civil* jurisdiction of the court of quarter-sessions may be said to consist of that part of their business which is entirely submitted to the judgment of the court, without the intervention of the jury. This, it may be seen, is noticed slightly in the commission: but by far the greater part of the civil business of the sessions comes before the justices as a court of appeal deriving their authority from various statutes. This appellant jurisdiction extends over penal convictions, orders of justices, and matters connected with the administration of the poor laws, the vagrant laws, and the highway and a variety of other acts; and is discussed, in its various branches, through the titles of this work. On the subject of appeal itself, generally one of the most difficult and important on which the sessions are required to determine, information will be found under title “*Appeal*,” Vol. I.

2. Civil jurisdiction.

Appellant.

Besides this appellant jurisdiction, the sessions have, in some matters, an original jurisdiction. They have, in general, an original jurisdiction to do whatever may be done by two magistrates, except where the statute empowering the magistrate to act gives an appeal to the sessions.

Original.

This jurisdiction is most usually exercised in cases of apprenticeship, in the allowance of articles of the peace, and in the disposal of vagrants committed to the sessions for punishment. Information regarding these matters will be found under their respective titles.

In this place, it will only be necessary to give some cases illustrative of the general nature of this civil jurisdiction.

Where authority is given to two justices to do any act, the sessions may do it in all cases, except where appeal is directed to the sessions. (*Per Holt, C. J., R. v. Inhabitants of Boughton in Kent*, 1 *Ld. Raym.* 426.)

The sessions may do what two justices may.

But the sessions cannot suppress a licensed alehouse, unless for disorder. (*R. v. Randall*, 2 *Salk.* 470.)

Though, in certain and particular cases, an action may be brought at the assizes or the sessions, by the 5 & 6 *Edw. VI. c. 14*, 5 *Eliz. c. 4, s. 39*, and 21 *Jac. I. c. 18, s. 12*, an action, bill, or plaint, cannot, by the common law, be brought at the assizes or the sessions. (4 *T. R.* 115.)

Whether action, &c. lies in.

The 1 *Jac. I. c. 22*, gives certain penalties to be recovered (s. 46) by action of debt or information in the courts at *Westminster*; and the 50th section gives jurisdiction to the justices of assize of gaol delivery and of the peace to inquire of the premises, and to hear or determine the same; under the latter clause, the inferior courts can only proceed by indictment or presentment; and the informer may bring an action of debt in the superior courts at *Westminster*, notwithstanding the 21 *Jac. I. c. 4*. (*Id.*)

The true meaning of the 21 *Jac. I. c. 4*, is this: wherever, by any act then in force, the informer might have sued by action, bill, plaint, suit, or information, in the inferior courts, as well as in the courts at *Westminster*, he is confined to sue in the former. But as this statute gives no new jurisdiction to the inferior courts, the party may still sue in the courts at *Westminster*, for all those penalties which could not, before the passing of that statute, have been recovered in the inferior ones. (*Id.* 117.)

The sessions may proceed to outlawry in cases of indictments found before them, and that by the common law; and in cases of popular actions, by the 21 *Jac. c. 4*. But they cannot issue a *capias utlagatum*, but must return the record of the outlawry into the King's Bench, and there process of *capias utlagatum* shall issue. (2 *Hale*, 52; *Lamb.* 521; *Dalt. c. 193*, p. 473.)

Whether they may issue a *capias utlagatum*.

But they that have power to award process of outlawry have also a power to award a *capias utlagatum*, as incident to their authority and jurisdiction. (12 *Rep.* 103.)

The sessions cannot award an attachment for contempt in not complying

Attachment.

4. *The Jurisdiction, &c. of the Sessions.*

Compelling attendance of witnesses.

Fining bailiff not executing precept.

Fining a justice, &c. for non-attendance, &c.

General power to fine for contempt.

Power to prohibit publication of proceedings.

Sessions delegating their authority.

with their orders; but the ordinary and proper method is by indictment. (*R. v. Bartlett*, 2 Sess. Ca. 176.) See *ante*, "Process;" and as to the power of the sessions over witnesses, see "Evidence," Vol. II., p. 101. (*R. v. Brownell*, 1 Ad. & Ell. 598.)

A charter of Car. II. gave to the lord of an ancient liberty the execution of all writs, processes, and precepts of his majesty within the liberty, and contained a *non intromittant* clause, restraining the sheriff from entering, "unless it touched his majesty or his crown, and unless upon the default of the bailiffs and officers of the lord:" held, that by virtue of this charter, and the provisions of the statute 27 Hen. VIII. c. 24, s. 7, the lord's bailiff was bound to obey the sheriff's precept for returning jurors from the liberty to the quarter sessions; and that for disobedience to such precept, the justices at sessions had jurisdiction to impose a fine upon the bailiff. (*R. v. Jaram*, 7 D. & R. 163; 4 B. & C. 692, S. C.)

It seemeth certain, that the sessions have no authority to amerce any justice for his non-attendance at the sessions, as the judges of assize may for the absence of any such justice at the gaol delivery; for it is a general rule, that *inter pares non est potestas*, it being reasonable rather to refer the punishment of persons in a judicial office, in relation to their behaviour in such office, to other judges of a superior station, than to those of the same rank with themselves. And therefore it seems to have been holden, that if a justice at the sessions, who is not of the *quorum*, shall use such expressions towards another who is of the *quorum*, for which, if he were a private person, he might be committed or bound to his good behaviour, yet the sessions hath no authority to commit him, or to bind him to his good behaviour; and yet it seems to be agreed, that if a justice give just cause to any person to demand the surety of the peace against him, he may be compelled by any other justice to find such security; for the public peace requires an immediate remedy in all such cases. (2 Haw. c. 8, s. 46; 1 Stra. 21.)

The principle that every court has a power to fine for contempt was clearly established in the case of the *King v. Davidson*, 4 B. & Ald. 329. "No lawyer," said Abbott, C. J., in delivering his opinion on this case, "can doubt the power of every court to fine for contempt." And in the same case, Bayley, J., said—"Of the power of a judge to fine for contempt of court, I have not the least doubt; and I am of opinion, also, that the judge alone is competent to determine whether what is done be or be not a contempt; and that neither this court, nor any other co-ordinate court, has a right to examine the question, whether his discretion, in that respect, was fitly and properly exercised." Best, J., also there said, "No man who pretends to any knowledge of the law can doubt, that a judge of a court of record has authority to fine or imprison for any contempt committed in the face of the court. From the earliest period of our history this authority has been exercised. The year-books record instances of such commitments, and there are similar instances in other books of reports. At those times when our ancestors have abolished or restrained improper authorities, they have not touched this, because they found it essential to the due administration of justice. A court of *nisi prius* is a court of record, and the judge presiding in it is, therefore, invested with the power of committing for contempt." See also the case of *R. v. Clement*, 4 B. & Ald. 218; "Examination," Vol. II.

All the cases on this subject with respect to the power of courts of record to fine and imprison for contempt, are collected together very ably by Mr. Justice Wilmot, with a view to a judicial opinion in the *King v. Almon*, Wilmot's Notes, 243.

A court of gaol delivery has the power to make an order to prohibit the publication of the proceedings pending a trial likely to continue for several successive days, and to punish disobedience to such order by fine. (*King v. Clement*, 4 B. & Ald. 218.)

The consent of parties that the sessions shall delegate their authority, concludes such parties, and gives validity to all acts of the sessions in conse-

quence of such consent. (*R. v. Just. of Northampton, Cald. 30*; *S. P. R. v. Just. of Devonshire, Cald. 32.*)

4. *The Jurisdiction, &c. of the Sessions.*

Justice acting in a matter concerning himself.

A justice cannot act at sessions, where a matter which concerns any office he may hold comes in question. This was decided in the case of *Foxham titbing*, in the county of *Wilts.* (2 *Salk.* 607.) A justice of the peace was surveyor of the highways, and a matter which concerned his office coming in question at the sessions, he joined in making the order, and his name was put in the caption. By *Holt, C. J.*—"It ought not to be; as, if an action be brought by my Lord Chief-Justice *Trevor* in the Court of Common Pleas, it must be before *Edward Neville*, Knight, and his associates, and not before *Thomas Trevor, &c.*;" and it was quashed. And in *R. v. Gudderidge*, 8 *D. & R.* 217, it was held, that a justice of the peace who is a rated inhabitant of a parish, cannot vote at the sessions, either upon the determination of an appeal against the accounts of the overseers of his parish, or upon the propriety of granting a case for the opinion of the Court of King's Bench. See further as to this subject "*Justices*," Vol. III. p. 568. (*Great Charter v. Kennington*, 2 *Stra.* 1173; *R. v. Yarpole*, 4 *T. R.* 71.)

The quarter sessions may apply the county stock to contest the legality of a fine imposed on the county for not repairing its gaol. (*R. v. Essex, Nolan*, 56.)

County stock.

Justices at sessions appointed a committee of twelve magistrates to inspect the state of a county bridge, and to make any new contract for repairing or rebuilding, to be executed by the clerk of the peace on behalf of the county. Afterwards they made an order, adopting a contract for rebuilding proposed by the committee, and directed it to be prepared by the clerk of the peace, which contract having afterwards been executed by the clerk, the justices at a subsequent sessions confirmed all the resolutions of the committee, and ordered the clerk to perform their directions in respect to the contract.—The acts of the committee so confirmed are the acts of the sessions, and the authority given to the committee and exercised by them, is not such a delegation of power by the sessions as will invalidate their orders. *R. v. Just. of Glamorganshire*, 2 *T. R.* 279; *Nolan*, 249, *S. C.*)

County bridge.

The sessions are not authorized to order the payment by the bridgemaster to the clerk of the peace of a per-centage on all money raised for the repair of bridges in a particular district, in lieu of all his fees for indictments, presentments, &c., for bridges within it; although such per-centage was claimed as an ancient fee, and had been paid without dispute for a long period of time. (*R. v. Houldgrave*, 1 *B. & Ald.* 312.)

Clerk of peace, fee of, &c.

The sessions have no jurisdiction, under 55 Geo. III. c. 51, s. 16, to make a prospective order for a compensation thereafter to be made to the clerk of the peace; and, therefore, where a county treasurer, in obedience to such an order, made the payment, and that payment was afterwards, by an order of sessions, allowed in his accounts, the Court of King's Bench quashed so much of the order of sessions as allowed that item. (*R. v. G. Williams, Esq.*, 3 *B. & Ald.* 215.)

In the same case it was made a question whether, under the 55 Geo. III. c. 51, s. 16, the sessions have a power to make any compensation to the clerk of the peace.

Justices, upon appeal from a rate to the quarter sessions, cannot make a new, but only quash the subsisting rate. (*R. v. St. Andrew's Holborn*, 3 *Burr.* 1458.)

Rates.

The sessions have no original jurisdiction over overseers' accounts. (*R. v. Portsmouth*, 1 *W. Bla.* 395.)

Overseers' accounts, &c.

So, they have no jurisdiction to make an original order for the late overseers of the poor to pay money to their successors. (*R. v. Whitear*, 3 *Burr.* 1365.)

So, orders upon surveyors of highways, to pass their accounts and pay over monies under the now repealed act 13 Geo. III. c. 78, could not be made originally by the general quarter sessions. (*R. v. Hartshorn*, 2 *Burr.* 745.) See "*Highways*," Vol. III. p. 105.

Highways.

An original order of bastardy, before 4 & 5 Wil. IV. c. 76, must have

Bastards.

4. *The Jurisdiction, &c. of the Sessions.*

Poor-rate.

Apprentice.

Dissenters.

Navigable river-rate.

In general.

Must be positive and in due form.

Need not give reasons for.

been made at the quarter sessions. (*R. v. Greaves*, 2 *Doug.* 632.) See "*Bastards*," Vol. I.

Where a person is overcharged in a poor-rate, the sessions may relieve him on appeal, and amend the rate by lessening the sum assessed on him under the 17 Geo. II. c. 38. (*R. v. Cheshunt*, 2 *T. R.* 623.) See "*Poor*," Vol. IV.

And the sessions may order an apprentice to be discharged and money to be returned, though bound to a trade not mentioned in the act; but the order must state that the defendant appeared, or was summoned and made default; and that the master had received money with the apprentice. (*R. v. Aimes*, 1 *Bott's P. L.* 574.) See "*Apprentice*," Vol. I.

The court of sessions is merely ministerial, as to registering meeting-houses under the Act of Toleration. (*R. v. Just. of Derbyshire*, 1 *W. Bla.* 606.)

By the 10 & 11 Wil. III. c. 8, the proprietors of navigation shares in the river Tone are created a corporation, with certain funds, and directed to keep an account of their receipts and disbursements, which shall every year be examined, stated, corrected, and allowed by the Bishop of Bath and Wells, and the justices of the peace for the county of Somerset, or any five or more, at their first general quarter sessions after a certain day, at which time they are to direct a distribution of the surplus profits, if any: held, that the sessions in one year have no authority to revise or correct any errors in the accounts upon which a balance was struck and allowed at the sessions in any preceding year. (*R. v. River Tone Conservators*, 8 *T. R.* 286.)

2. THEIR JUDGMENTS, &c.

We have already under title "*Appeal*," Vol. I., considered many points of law and practice as to the judgments of the court of sessions; also, as to what justices may give their opinion therein; and as to judgments in general, see "*Judgment*," Vol. III. A justice cannot vote in the judgment when interested in the matter, *ante*, 613.

The judgment or order must determine the matter, and if it merely state the evidence of the case, it will not suffice. (*R. v. Luffington*, 1 *Wilson*, 74; *R. v. Martley*, *Burr. S. C.* 120.)

An order of sessions on stat. 11 Geo. II. c. 19, s. 3, for preventing frauds by tenants, was confirmed, although both offences of moving or concealing property were charged in the disjunctive. (*R. v. Middlehurst*, 1 *Burr.* 399.) See title "*Order*," Vol. III.

An order was quashed for an uncertain reference to the county in describing the justices. (*R. v. Stepney*, *Burr. S. C.* 23.)

Quarter sessions are sufficiently described by the words "a general quarter sessions of the peace," without stating the caption. (*Slack v. Wilkins*, 3 *Tyrwh.* 158.)

The sessions are not compellable to give any reason for their judgment in the order they make, no more than any other court of law. (2 *Salk.* 607, *ante*. See "*Appeal*," Vol. I., p. 160.)

Where a reason is assigned as the foundation of a judgment, all presumption or intention that the court went upon better grounds is excluded. (*R. v. Upton Gray*, *Cald.* 308.)

When the sessions come to a conclusion, which could only be arrived at upon the assumption of a particular fact, that conclusion shall be considered as amounting to a finding of that fact; as when it was a question whether there was a hiring and service for a year in the appellant parish, and the sessions confirmed the order, subject to the opinion of the court as to a settlement being there gained by hiring and service, it was holden that this was tantamount to a finding of a hiring and service for a year in that parish; and that such finding ought not to be disturbed, if there were any premises to warrant it. (See *R. v. St. Andrew the Great*, 3 *M. & R.* 374; 8 *B. & Cres.* 664.)

It is questionable whether, when the sessions state facts fully and particularly, from whence they infer fraud, the Court of King's Bench can draw

their own conclusion from those facts, without having regard to the adjudication of the court of sessions. (*R. v. Woodland*, 1 *T. R.* 261; see *R. v. Tillingham*, 1 *B. & Adol.* 180.)

The court will not intend any thing to vitiate an order of sessions. (*R. v. Higher Walton*, *Burr. S. C.* 162.) And when a matter appears to be doubtful on the face of the order, the court will intend that it has been done right. (*R. v. Meyfield*, *Burr. S. C.* 453.)

By *Holt*, C. J., the sessions is all as one day, and the justices may alter their judgments at any time, whilst it continues. (*St. Andrew's, Holborn*, *v. St. Clement's Danes*, 2 *Salk.* 606; *Thornby v. Fleetwood*, 1 *Stra.* 383.) See "Amendment," Vol. I.

A wrong entry of judgment by mistake, and not corrected during the sessions, is no ground for a re-hearing. And where one judgment is entered at the sessions for another, the King's Bench cannot interfere, unless the mistake is apparent on the record. (*R. v. Justices of Leicestershire*, 1 *M. & Sel.* 442.)

In *R. v. Harding*, 2 *Salk.* 477, it is delivered as the resolution of the court, that a judge of *nisi prius*, by consent of parties, may make a rule to refer a cause; but the sessions cannot do so, though by consent. They may refer a thing to another to examine, and make report to them for their determination, but cannot refer a thing to be determined by the other.

But in *R. v. the Justs. of Northampton*, *Cald.* 30, on a motion to quash an order of sessions quashing a poor-rate, on the ground that the rate was by the sessions referred to two justices out of sessions, and that the sessions afterwards adopted their opinion, without exercising their own judgment, *Ld. Mansfield* said,—“If they did this of their own accord, without the consent of the parties, it cannot be supported: they are not warranted to delegate their authority: but, if they acted with the consent of the parties, I think they have done very right; and we will never suffer the party who consented to the reference to come here to set it aside; and I think it sufficient if the attorneys consented, and attended at the reference.” The case was sent back to the sessions to certify whether it was referred by consent; and afterwards the order was affirmed. See, further, *ante*, 602; “Award,” Vol. I.

A bill of exceptions will not lie to the justices in sessions on an appeal; for, as observed by *Ld. Hardwicke*, in the common case of bills of exceptions tendered to the judges, the jury alone are the proper persons who would be to decide whether they believe the evidence or not; the judges have nothing to do with the belief of the evidence; they are not to determine on its credibility, but on the consequences of law arising from it. But the justices at sessions are judges of the fact as well as law; they are jury as well as judges; it is in their breast only whether to believe or disbelieve the evidence; and who is to take upon himself to say what portion of the evidence they do believe, and what they do not? Suppose six of the justices believe the evidence, and two of them do not believe it, are the two to conclude the six as to the belief of the fact? When the justices specially state the fact, it is the act of the whole court; but here only two out of the whole number have sealed the bill of exceptions. (*R. v. Preston*, *Burr. S. C.* 77.)

In the case of *Thornby v. Fleetwood*, *T.*, 6 *G.* 1, which was upon a writ of error in the King's Bench, brought against a judgment in the Common Pleas, the court was equally divided, whereupon it was considered what was further to be done. And after several expedients which were judged impracticable, the parties at last consented that the judgment should be affirmed, so that the case thereupon might come before the House of Lords for a final determination; and *Pratt*, C. J., delivered the opinion of the court thus:—“The plaintiffs in error move us for an affirmance; as to that, you see the court is divided, and there can be no rule but in this case, because the party against whom it is to be affirmed is desirous and willing that it should be so. We are all of opinion, that upon his consent the judgment of the Common Pleas may be affirmed. But, lest this be brought in future ages as a precedent of an affirmance upon a division, we direct the officer to make the rule special in this case, on recital of the difference in opinion amongst the

4. *The Jurisdiction, &c. of the Sessions.*

Intendment against judgment of sessions.

Amendment of.

Mistake in.

Whether the sessions can refer a matter.

Bill of exceptions will not lie.

Where court divided in opinion.

4. *The Jurisdiction, &c. of the Sessions.*

judges, and the consent of the party. (*Thornby v. Fleetwood*, 1 *Str.* 383, 384.)

Or, if the court shall be still divided, as so it may happen in small counties or towns corporate, where the justices are but few, or where the number is reduced by reason of the rest being interested, in order that the case may not be hung up for ever, it may be advisable (according to the course prescribed in the case of *Thornby v. Fleetwood*, above mentioned) for the court, by consent of the parties, to affirm or quash, and thereupon state the case especially, to be laid before the judges of assize, or rather before the Court of King's Bench, for the judges of assize are oftentimes sufficiently employed with the proper business of the circuit, without being importuned with these matters of inferior consequence.

Where, upon an appeal against an order of removal, the justices at sessions were equally divided, and made an order that the hearing of the appeal should be adjourned, one of the justices who voted in favour of the respondent parish, being a rated inhabitant of that parish, an application for a *certiorari* to remove the order of sessions, in order that it might be quashed, was refused, on the ground that, even if the order of sessions was erroneous, the court had no jurisdiction to review it. This was decided in the case of the *King v. the Justices of Monmouthshire*, 8 *B. & C.* 139; 3 *S. C. nom. R. v. Uske*, 2 *M. & R.* 172. "The late decisions," said *Ld. Tenterden*, in delivering the opinion of the court on this question, "establish, that we cannot assume to ourselves the jurisdiction of a court of error, and revise the judgments of the court of quarter sessions. Here a judgment has been pronounced by the court of quarter sessions, relating to a subject-matter over which that court had jurisdiction; and, assuming that judgment to be erroneous, I think we have not jurisdiction, as a court of error, to review it."

Sessions sole judges of propriety of entry of verdict.

Upon the trial of an indictment at the sessions, the court is the sole judge of the propriety of the entry of the verdict; where, therefore, upon a special finding by the jury amounting to an acquittal, the chairman directs a verdict of guilty to be entered, the court of K. B. will not grant a mandamus requiring the minute of the verdict to be altered according to the fact. The only course open to the prisoner is, it seems, to apply to the crown for a pardon. (*R. v. Justices, Suffolk*, 3 *N. & M. M. C.* 221; 5 *N. & M.* 139.)

How far conclusive, &c.

We have already noticed the effect of a judgment of sessions, as to how far it is conclusive on the court of King's Bench and parties, &c. See "*Appeal*," Vol. I., p. 159; "*Evidence*," Vol. II., p. 61.

The Court of King's Bench will take cognizance of a case reserved by the sessions accompanying the proceedings so removed; and where the sessions, upon proof that the appellant had received from the clerk of the convicting magistrates a copy of his conviction, signed and sealed by such justices, purporting on the face of it to have been made upon the information of B. and C. (though such copy was drawn up on the back of the paper which contained the information of A., the true informer, B. and C. being only the witnesses who had been examined in support of the charge, and though the same justices had returned to the sessions, to be filed of record, a regular conviction of the same date, signed and sealed by them, on parchment, stating it to have been made on the information of A., and supported by the evidence of B. and C., according to the truth of the case), had quashed the latter conviction so returned by the justices, as being at variance with the minutes of the conviction delivered to the appellant, without entering into the merits of the case, upon a preliminary objection taken by the appellant, this court quashed the order of sessions generally; thereby setting up again the regular conviction, considering that the variance arose from the mere mistake and irregularity of the justice's clerk, and that the appellant was not really surprised by it, but had waived his appeal on the merits. (*R. v. Allen*, 15 *East*, 333.)

When the sessions adjudge a place to be a vill by reputation, as a substantive fact, the Court of King's Bench is precluded from going into the question, notwithstanding the sessions state all the evidence particularly on which they formed their opinion. (*R. v. Ronton Abbey*, 2 *T. R.* 207.)

If the sessions draw a conclusion of fact, that the taking of a tenement is

fraudulent, or that it does not amount to 10*l.* per annum, it is decisive in 4. *The Jurisdiction, &c. of the Sessions.* the Court of King's Bench, though they state all the facts, and refer the consideration of those questions to this court. (*R. v. Lanwinnio*, 4 *T. R.* 473; *Nolan*, 19, *S. C.*)

Though the sessions find that certain persons in the township were possessed of visible stocks in trade there, and were personally liable to be rated in respect thereof, if by law such property were liable to be rated; yet, if they also state that they were not satisfied from the evidence offered before them that there was any surplus profit on such stocks, by which they could amend a rate which omitted them, that concludes the question. (*R. v. Macdonald*, 12 *East*, 324.)

A party found guilty by a jury at a session irregularly holden, is entitled to have the record of the proceedings correctly made up according to the fact, and the Court of King's Bench will grant a mandamus to the justices to make up such record. (*R. v. Justices of Middlesex, in Re Bowman*, 5 *B. & Adol.* 1113.) Record of, right of party to have it made up properly.

A mandamus to the quarter sessions will go, commanding them to issue such process of execution where there has been no delay in making the application, or the delay has been satisfactorily accounted for. (*R. v. Justices of Warwickshire*, 4 *Nev. & Man.* 370; 1 *Hurr. & W.* 18, *S. C.*) Mandamus for execution.

3. OF STATING A SPECIAL CASE, AND PROCEEDINGS ON.

Mr. *Dickenson* observes, that a reference to the judge of assize, either of the whole case, or of some point of legal difficulty involved in it, used formerly to be a common practice, but is, of late, fallen much into disuse. For this change many reasons might be adduced, but they are unnecessary here. If any particular circumstances should make this mode eligible, the right still continues; but it has generally given place to a more eligible one, which is that of stating a special case for the determination of the Court of King's Bench. (*Dick. Sessions*, 627.) Without such special case, the Court of King's Bench has in general no jurisdiction to review the judgment of a court of quarter sessions. (*R. v. Allen*, 15 *East*, 333; *R. v. Carnarvon Justices*, 4 *B. & Ald.* 86.) Reference to judge of assize.
Special case.

The sessions do not always refer the whole case to the judge of assize: sometimes they refer only a particular point, and reserve the final determination of the whole matter to themselves. (*R. v. Tedford*, 2 *Burr. S. C.* 57; 2 *Sess. Cas.* 243.)

When the special case is granted, the object is carried into effect by the counsel agreeing to a statement of facts, which are usually corrected and settled by a reference to the chairman's notes. (*Id.*)

The case so settled, is to be signed by the junior counsel on each side. If no counsel are employed, or if they cannot agree upon a case, even with the assistance of the chairman, the latter may, with the concurrence of a majority of the justices on the bench, state and sign a special case himself. (*Id.*)

There is no specific form or precedent, according to which a special case must be drawn; but, nevertheless, there are certain rules to be collected from a long succession of determinations, which are, in substance, as follow:—The justices, with regard to the civil business of the court, by the summary jurisdiction which is given to them, it has been observed, are placed in the situation of jurors, and judges, conjointly. They are to elicit the facts from the evidence, as jurors would do, and they are to judge of the law arising out of those facts in the common course, if they think fit. Out of this position arise two conclusions: viz. first, that they are not compellable to grant a special case, if they entertain no doubt (a) whatever of the law: and therefore, though it is certainly, in point of candour, right to Form of the case.
The law of the case.

(a) "The magistrates ought not to be induced to send up cases for our opinion, if they have no doubt upon the question in their own minds, in order to avoid incurring unnecessary expenses." (*Per Bailey, J., R. v. Inhab. of Darley Abbey*, 14 *East*, 285.)

4. *The Jurisdiction, &c. of the Sessions.*

The facts.

1841, 10 Nov. 1841
11 Nov. 1841
12 Nov. 1841

1841, 10 Nov. 1841
11 Nov. 1841
12 Nov. 1841

Fraud.

Facts must be
specifically found
and stated.

Insufficient case
sent back, and
proceedings on.

comply with the request of the litigant parties by doing so, where any reasonable doubt on the subject is suggested, they will best consult the interests of the public by refusing it where they believe the application to arise out of mere obstinacy, or a spirit of litigation; and should always refuse it, unless they entertain serious doubts. (*Per Bailey, J.*, in the *King v. Burbach*, 1 *M. & Sel.* 376.) Secondly, that their authority to judge of the law is the only one which in these cases they reserve for the superior court; whence it follows, that the facts make no part of the subject-matter on which the court above are to exercise their discretion, and therefore, having been found by the justices, they must be specifically stated in the case, and not the evidence from which they were deduced. (*Burr.* 120, *S. C.*) A very few examples may suffice for illustration. On an appeal respecting a pauper's settlement, where the question depends on an equivocal hiring, or a doubtful service for a year, the fact is to be deduced from the evidence, such as it may be, one way or the other, by the justices; and not the evidence, from which they draw their conclusion, stated. (*R. v. Hobbear*, 1 *E. R.* 73.) So, whether a master gave a particular consent to his apprentice to serve a third person, is a matter of fact, which, let it rest on testimony ever so ambiguous, must be found, and not left doubtful on the face of the statement. (*Burr.* 682, *S. C.*) So, in a question of settlement by residing on an estate, the session must state the interest which the pauper took, whether he came in by descent or by purchase; and if the latter, the price of such purchase, that it may appear on the face of the statement, that it was such a purchase as will confer a settlement. (*R. v. Warblington*, *T. R.* 241.)

Fraud is a fact. This, therefore, like all other matters of fact, if it make any part of the case, to influence the opinion of the justices, must be specifically found by them, and stated accordingly; for it is not enough to state such evidence, though clearly leading to the most palpable conclusion of fraud, for the court above to draw such conclusion. (*Per Buller, J.*, in the *King v. Fillongley* 1 *T. R.* 461.) In some cases, the evidence and the conclusion have both been stated, to which there is no objection in point of form; but it leads to an obvious inconvenience in point of practice, that if the court above should differ from the sessions as to the conclusion, they could not regularly interfere; and that, in appearance, an opinion is asked, which the court cannot judicially give. (*Burr. S. C.* 57, 171; *Talf. Dick. Sess.* 627.)

The sessions on the case sent should state the conclusion of fact, which they draw from the evidence, and not the evidence itself. (*R. v. St. Cuthbert Wells*, 3 *Nev. & M.* 100.)

Where upon a special case, facts are stated which warrant the judgment of the court below, but that court has drawn an inference which is not warranted by the statement, the order will be confirmed, without sending back the case to be re-stated. (*R. v. Rickingham Superior*, 1 *Nev. & M.* 47.)

If the special case be insufficient, the court will send it back to be re-stated, upon which the sessions should proceed and re-hear it as if it were an entire new business; for it is in the nature of a new trial; wherefore they have no right to take any notice of what passed before, and they may receive further evidence, and make a new order on such re-hearing. (*R. v. Page*, 2 *Bott.* 743; *Rex v. Bloxam*, 1 *Adol. & Ell.* 386; 3 *N. & M.* 385, *S. C.*)

When the case, however, is only sent back to ascertain some particular fact, the proof may be confined to that, and it may be amended by new evidence. (*R. v. Hitcham*, *Burr. S. C.* 489.)

Or the case may be sent back to explain some ambiguity of expression, or an omission of an inference, which the justices may supply without hearing witnesses; for the sessions, in order to re-state a case, are not necessarily obliged to hear new evidence. (*R. v. Bray*, 2 *Bott.* 743; *Burr. S. C.* 684.)

But the court will not send a case down to the sessions to be re-stated on a mere formal objection, if enough appear to enable them to decide according to the merits of the case, and when the only possible result of sending

back the case would be to produce delay and expense. (*R. v. Inh. of 5. Of Adjournment. Middlezoy*, 2 *T. R.* 41.)

Nor on the affidavit of a person that the clerk of the peace did not state his evidence truly. (*R. v. Burgh*, 2 *Bott.* 747.)

Where it has been referred to the chairman at sessions on an appeal to state a case, and a case has afterwards on *certiorari* been returned to this court by the clerk of the peace purporting to be signed by the chairman, this court will not send it back to be re-stated, or quash the *certiorari*, on the ground of the chairman having said that he did not recollect signing the case, and upon a suggestion by the attorney for one of the litigating parties in an affidavit, that such case does not agree with the facts proved, and that deponent believes the chairman did not settle the case. (*R. v. The Inhabitants of Matlock*, 5 *B. & Adolph.* 883.)

The sessions cannot be compelled to state a special case. Nor will the court permit them to raise a general question, by omitting to state particular circumstances belonging to the case. But if the sessions order a special case to be made, and before it is settled the sessions is inadvertently adjourned, the court of King's Bench will grant a *mandamus* to compel them to proceed in the appeal. (*R. v. Oulton*, 2 *Bott.* 73; *R. v. Francis Hill*, 1 *Bott.* 280; *R. v. Justs. of Sussex*, 2 *Bott.* 751; *R. v. Pembrokesh.*, 2 *B. & Adolph.* 391.)

Sessions not compellable to state a case.

But they will not grant such a *mandamus*, where it is clear that the proceeding could lead to no result; as where the chairman, in consequence of his own opinion and that of the court upon the facts, refused to sign any statement but one which would have excluded the point of law relied on by the party demanding a case. (*R. v. Pembrokeshire*, 2 *B. & Adolph.* 391.)

Where the quarter-sessions have dismissed an appeal upon a point of practice, subject to a case, which the applicants for the case have not brought up, the court of King's Bench will not at their instance grant a *mandamus* to enter continuances and hear the appeal. (*R. v. Justices of the West Riding; Warmsworth v. Doncaster*; 1 *Adol. & Ell.* 606.)

If the justices at sessions are equally divided, and no order be made, nor the sessions adjourned, no order can be made at a subsequent sessions. (*Post*, 620.)

Where justices divided in opinion.

Special orders of sessions are considered in the nature of special verdicts, which are not to state the evidence of the fact, but the fact itself. (*R. v. Martley, Burr. S. C.* 120; 2 *Bott.* 741.)

Special orders, verdicts, &c.

The court ordered the sessions to inquire into a fact which appeared doubtful on the original order of removal, even though the sessions stated no case for the opinion of the court. (*R. v. Margam*, 1 *T. R.* 775.)

The sessions should state, as a fact (in a settlement case), whether the master dispensed with the service before the end of the year, or whether there were a dissolution of the contract by mutual consent. (*R. v. St. Peter, Norwich*, 8 *T. R.* 477.)

What to be stated in a settlement case.

Special cases are most usually granted in cases of settlement and rating. They may, however, be granted in all cases of orders and convictions, where the *certiorari* is not taken away by statute. (*The King v. Allen*, 15 *East's R.* 333.)

Special cases may be granted on convictions, &c.

But the Court of King's Bench will take no cognizance of a special case reserved on an indictment at sessions. (*The King v. the Inhabitants of Salop*, 13 *East's R.* 95.)

Where one question alone is submitted to the Court of King's Bench by the sessions, that court will not consider any other questions. (*R. v. Guildford*, 2 *Chit.* 284; *R. v. Aire and Calder Navigation*, 2 *T. R.* 666.)

K. B. will not consider more than the question put.

V. Of Adjournment.

It should be premised that the whole session is in law considered as one day. All the proceedings have reference to the first day of the sessions,

Adjournment of the sessions.

6. *Fees, Estreats, and Costs.*

and the justices may alter their orders, if they see good cause, at any time before the close of the sessions. (2 *Salk.* 607; 1 *Str.* 383.)

If the justices at sessions are equally divided, or from any other cause no judgment is given, and no adjournment takes place, no order can be made on an unfinished case at a subsequent sessions. (*Bott.* 713; *Bodmin v. Warlyne*, 2 *Bott.* 733.)

Where there is an equal division, an adjournment should be entered by the clerk of the peace that the justices may resume the consideration of the matter at a future sessions. (*Id.*)

The court of quarter-sessions cannot be adjourned by the crier without the presence of the justices. (*R. v. Middlesex Justices*, 3 *N. & M.* 110; 6 *C. & P.* 90.)

The adjournment of a sessions must be made by the same number of justices as are necessary to hold it. (*R. v. Westington*, 2 *Bott.* 733.)

The adjournment ought not to be beyond the time of meeting of the next quarter-sessions, as in the case of *R. v. Grince, T.*, 4 *Geo. I.* An indictment was found before the justices for the county of Lincoln, against a constable, for refusing to obey an order of the justices; and the defendant was tried, convicted, and had judgment given against him, at a general sessions, held the 3rd day of May (which was after the Easter sessions began), by the adjournment of the Epiphany sessions; but, by the Court of King's Bench, the judgment was reversed, because the justices cannot continue one general sessions to a day subsequent to the time appointed by the 2 *Hen. V. c. 4*, for the holding another original sessions. (19 *Vin. Abr.* 358.)

Where the sessions is adjourned, the style of the sessions ought not to run *at such a sessions held by adjournment*; but the original meeting of the sessions ought to be set forth, and that it was continued by them from thence to such further time by adjournment. (*R. v. Harrowby*, *Burr. S. C.* 102; *R. v. Heptonstall*, *Id.* 88; *R. v. Fisher*, 2 *Str.* 865; see also *R. v. Walker*, 2 *Sess. Ca.* 21.)

See further as to the adjournment of the hearing of appeals, *ante*, "Appeal," Vol. I. p. 162.

VI. Fees, Estreats, and Costs.

Wages of the justices and estreats.

By the 12 *Rich. II. c. 10*, the justices shall take for their wages 4s. the day for the time of their sessions, and their clerk 2s., of the fines and amerciaments arising and coming out of the same sessions, by the hands of the sheriffs (a). And the lords of franchise shall be contributory to the said wages, after the rate of their part of fines and amerciaments. See "*Justices*," Vol. III. p. 568.

But by the 14 *Rich. II. c. 11*, no duke, earl, baron, or baronet, shall take any wages.

And the estreats of the justices shall be doubled, and the one part deli-

(a) The sum allowed for justices' wages in the county of Middlesex varied according to the number of justices *present* at each sessions; for the year ending Michaelmas 1833, the sum then claimed amounted to *four hundred and thirty-five pounds eleven shillings*, upon which the lords commissioners of the treasury thought fit to order the sum of *two hundred pounds* to be paid and no more. In August, 1835, the lords commissioners directed that from and after the then next October general quarter-sessions of the peace, no greater allowance should be made on account of justices' wages than that authorized by the

acts of the 12 & 14 *Rich. II. c. 10 & 11*, namely, *four shillings* a-day for each justice, according to the number of days he shall actually attend at the sessions, not in any case exceeding the number of *eight* justices in one day, and *two shillings* per day for their clerk.

The allowances for justices' wages, in all other counties, was *forty-eight pounds per annum*, however much the amount claimed might be, and in future all the other counties in England, as respects justices' wages, are placed on the same footing with the county of Middlesex.

vered by them to the sheriff, to levy the money thereof rising, and thereof to pay the justices their wages by the hand of the sheriff, by indenture betwixt them thereof to be made.

7. *Forms.*

The fees in sessions for traversing, trying, or discharging indictments, discharging recognizances of the peace and good behaviour, and the like, do vary according to the custom of the country; and, in that case, the custom of the place is to be observed. (*Dalt. c. 41.* See title "*Clerk of the Peace*," Vol. I.)

Fees in sessions.

By *Holt, C. J.*, the court cannot commit for non-payment of fees; for, if there be right, there is remedy; and *indebitatus assumpsit* will lie, if the fee be certain; if uncertain, *quantum meruit*. (*Pollard v. Gerrard*, 2 *Ld. Raym.* 703; 12 *Mod.* 608.)

As to the allowances to constables and others, by justices in sessions, see the 18 Geo. III. c. 19, title "*Constable*," Vol. I.

Constables' allowances, &c.

As to prison fees, see "*Gaol*," Vol. II.

Prison fees.

As to costs of prosecutions and removals by *certiorari*, see "*Costs*," "*Certiorari*," Vol. I.

Expenses of prosecutions, &c.

And as to costs on appeal, see "*Appeal*," Vol. I.

VII. *Forms.*

County of } *J. P. and K. P., Esqs., justices of our sovereign lord the king,* (1.) Precept to
 } *assigned to keep the peace in the county of* , *aforesaid, and* summon the ses-
also to hear and determine divers felonies, trespasses, and other misdemeanors, sions (a).
committed in the said county, and one of us of the quorum; to the sheriff of the
same county, greeting. On the behalf of our said sovereign lord the king, we
command you that you omit not, by reason of any liberty within your county, but
that you enter therein, and that you cause to come before us, or other justices,
assigned to keep the peace in the said county, and also to hear and determine
divers felonies, trespasses, and other misdemeanors, in the said county committed,
on , *the* day of *now next ensuing, at the hour of [ten] in the*
forenoon of the same day, at , *in the said county, twenty-four good and*
lawful men of the body of the county aforesaid, then and there to inquire, present,
do, and perform all and singular such things which, on the behalf of our said
sovereign lord the king, shall be enjoined them; also, that you make known to
all coroners, keepers of gaols and houses of correction, high constables, and bailiffs
of liberties within the county aforesaid, that they be then there to do and fulfil
those things which, by reason of their offices, shall be to be done; moreover, that
you cause to be proclaimed through the said county, in proper places, the afore-
said sessions of the peace to be held at the day and place aforesaid; and do you
be then there to do and execute those things which belong to your office; and
have you then there as well the names of the jurors, coroners, keepers of gaols and
of houses of correction, high constables, and bailiffs, aforesaid, as also this
precept. Given under our seals, at A., in the county aforesaid, the day of
 , *in the* year of the reign of .

When the sheriff hath received this precept, he must direct several warrants to the several bailiffs of hundreds and liberties, containing in them the substance of the said precept.

County of } *The general quarter sessions of the peace holden at* , *in and* (2.) The style of
 } *for the said county, on the* day of *, in the* year the sessions.
of the reign of our sovereign lord William the Fourth, of the United Kingdom
of Great Britain and Ireland, king, defender of the faith, before J. P. and
K. P., Esqs., and others, justices of our said sovereign lord the king, assigned
to keep the peace in the said county, and also to hear and determine divers felo-
nies, trespasses, and other misdemeanors, in the said county committed, and of
the quorum, and so forth.

7. Forms.

(3.) Condition of a recognizance to appear and give evidence at the sessions, in case where the king is a party.

(4.) Subpœna to give evidence in case where the king is not a party.

The condition of this recognizance is such, that if the above-bound A. W. shall personally appear at the next general quarter sessions of the peace to be holden at _____, in and for the county of _____, and then and there give such evidence as he knoweth against _____, for having feloniously taken and carried away _____, the property of _____, and do not depart thence without leave of the said court, then this recognizance to be void.

William the Fourth, &c., to A. W., B. W., and C. W., of _____, [yeomen], greeting. We command you, and every of you, that all business being laid aside, and all excuses ceasing, you do in your proper persons appear before our justices, assigned to keep our peace in the county of _____, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in our said county committed, at the sessions of the peace to be holden at _____, in and for the said county, on _____, the _____ day of _____ now next ensuing, at the hour of [ten] in the forenoon of the same day, to testify all and singular those things which you, or any of you, shall know, in a certain appeal now depending between the [churchwardens and overseers of the poor of the parish of _____, appellants, and the churchwardens and overseers of the poor of the parish of _____, respondents, touching and concerning the removal of A. P. from the said parish of _____ to the said parish of _____; or, in case where the king is a party, to testify the truth, and give evidence on our behalf against A. O. for assaulting C. D.]; and this you and every of you are in no wise to omit, under the penalty of 10l. for you and every of you. Witness, J. P. and K. P., Esqs., two of his majesty's justices of the peace for the said county, the _____ day of _____.

Note.—There may be four witnesses put in one subpœna.

(5.) A subpœna ticket for a witness.

Mr. A. W. By virtue of a writ of subpœna to you and others directed, and herewith shown unto you, you are required personally to be and appear at the next general quarter sessions of the peace to be holden at _____, in and for the county of _____, to testify the truth according to your knowledge in a certain appeal now depending between [the churchwardens and overseers of the poor of the parish of _____, appellants, and the churchwardens and overseers of the poor of the parish of _____, respondents, concerning the removal of A. P. from the said parish of _____ to the said parish of _____, on the part of the said appellants]; and herein you are not to fail, on pain of 10l. Dated the _____ day of _____, in the year _____.

(6) Judgment of affirmance, &c. at sessions.

See a form *Chit. General Practice*, part 3, p. 216, 217.

Other matters relating to the very extensive office of a magistrate may be found under their proper heads, in almost every title of this work.

Sessions, Petty and Special.

Petit session, when necessary.

When expedient.

A PETTY or petit session is a meeting of two or more justices of the peace, holden of their own mere motion, for the execution of some power vested in them by law. There are some occasions on which, though a single magistrate may proceed, it is advisable and usual to procure the attendance of two or more. With respect to the cases in which one magistrate may act, but in which he should, in his discretion, seek the assistance of another, Mr. Serjeant *Talfourd* observes, that it is obviously impossible to suggest any general rules. A magistrate will probably think it advisable to adopt the latter course, in cases which affect large pecuniary interests, which involve questions arising on statutes of difficult interpretation, and in all cases where any doubt may reasonably be expected, and where his decision would be final. Cases will also sometimes occur, in which, though not in themselves difficult, local circumstances may render the concurrence of two or more magistrates advisable, in order that justice may not only be fully and fairly, but satisfactorily administered. (*Talfourd's Dick. Sess.*

p. 6.) See further as to when there must be two or more justices, *ante*, *Special and Petty*, "Justices," Vol. III. p. 561.

A special session is a meeting of justices, holden on a special occasion, for the execution of some particular branch of their authority, convened by reasonable notice to the other magistrates of the division. (*Per Bayley, J., R. v. Just. of Worcestershire, 2 B. & Ald. 233; 2 Haw. c. 8, 18.*)

It differs from a petty session, with which it has been sometimes confounded, in this important respect, that an opportunity must be afforded to the magistrates of the division in general to attend and participate in the proceedings, whereas the petty session may be holden by any two justices, on their mere private agreement, to transact such business as they are authorized to perform. (*Talf. Dick. Sess. 6.*)

By certain statutes, special sessions are required to be holden at particular periods. For instance, specific times are mentioned in the 48 Eliz. c. 2, and 54 Geo. III. c. 91, for appointing overseers of the poor; in 5 & 6 Wil. IV. c. 50, for appointing or dismissing surveyors of the highways; in 37 Geo. III. c. 143, 4 & 5 Wil. IV. c. 49, 5 & 6 Wil. IV. c. 63, for appointing inspectors of weights and measures; and in 9 Geo. IV. c. 61, for licensing ale-houses. (See titles "*Highways in General*," Vol. III.; "*Weights and Measures*," *post*; and "*Alehouses*," Vol. I.) The sessions, therefore, must in these cases be holden at the times named. There are others for which no particular time is or can be prescribed, and which may be convened whenever the occasion shall arise; as for diverting or stopping up highways, proceeding under the General Inclosure Act, and erecting a house of industry, &c.

Where the manner of holding a special session is prescribed by the statute which directs it to be holden, the precise requisitions of the statute must, of course, be obeyed. Where no such direction is to be found, as in the great majority of instances, the special session may be convened at the instance of the *custos rotulorum* of the county; of the clerk of the peace or his deputy; or of two justices. The party or parties convening the session issue a precept to the chief constable, who thereupon issues precepts to the petty constables, and gives notice to all the magistrates usually acting within the district for which the session is convened. The precepts must express distinctly the purpose for which the session is to be holden; and of this purpose distinct notice must be given to the magistrates, more especially when the session is not one of those directed by statute to be periodically holden for specific purposes. (*Talf. Dick. Sess. 7.*)

The forms of these precepts vary, of course, with the occasion; a specimen of one for holding a special session relative to the state of highways, &c. will be found in the twenty-sixth edition of this work, under title "*Highways*," Vol. III. p. 98.

We have already seen that, to constitute a good special session, reasonable notice should be given to all the magistrates of the division; and, therefore, in the case of the *King v. Justs. of Worcestershire, 2 B. & Ald. 228*, before mentioned, where a precept for holding a special session on the 15th of September, for diverting a way, was issued on the 12th, and the notices given on the 14th, the Court of King's Bench held that the session was not properly convened, and the order invalid.

When the division within which the magistrates act is a *hundred*, the notices of holding a special sessions must be given by the high constable of the hundred. When they are justices of a corporation, the notices must be served by authority of the officer of the corporation analogous to the high constable. In the case of *R. v. Justs. of Surrey*, the notice was served on the several magistrates of the division by the clerk of the magistrates, and not by the high constable; and the special session convened thereon was held bad. (*5 B. & C. 241; 7 D. & R. 857; 4 D. & R. M. C. 8, S. C.*)

But the statute only requires that the notice shall be given by the high constable or other proper officer; it is not necessary that it should be actually

Special session, what.

Differs from petty session.

Time of holding.

Manner of holding.

Notice given to magistrates.

Notice given by high constable.

Need not be actually served by him.

Special and Petty.

Cannot be holden by different sets of magistrates for same purpose.

Place of holding.

9 Geo. 4, c. 43.

Justices to forward to clerk of peace a statement of the townships, places, &c. that would form a proper division for which special sessions should be held.

Statement to be laid before the justices at next quarter sessions,

served by him; and, therefore, in the case of *R. v. Justs. of Suffolk*, where notice, having been signed by the chief constable, was served by a person acting under his authority, it was held good, as though he had personally served it. (*R. v. Justs. of Suffolk*, 6 B. & C. 110; 9 D. & R. 111, S. C.)

A special session cannot be holden by different sets of magistrates for the same purpose. And, therefore, where two sets of magistrates have concurrent jurisdictions, and one appoints a meeting to grant ale licences, their jurisdiction attaches so as to exclude the others appointing a subsequent meeting; but they may all meet together on the first day. But if, after such appointment, the other set of magistrates meet on a subsequent day, and grant other licences, their proceeding is illegal, and the subject of an indictment, even without evidence of corrupt motive. (*R. v. T. Sainsbury, Esq., and another*, 4 T. R. 451.)

The place of holding a special session is in the discretion of those who have power to convene it, so that it is within their jurisdiction; but it must be distinctly specified in the precepts and notices. (*Dalt.* 185, *ante*, 623.)

The exact division and limits of some counties being very uncertain, and the consequent risk of holding of special and petty sessions in improper places, engaged the attention of the legislature, and on the 15th of July, 1828, "An Act for the better Regulation of Divisions in the several Counties of England and Wales," was passed, by which, after reciting, "whereas by divers acts now in force it is enacted, that certain matters and things, in the same respectively mentioned, shall be transacted and determined within the divisions or limits within which the same shall arise, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling within or near to, or usually acting within, such divisions or limits respectively: and whereas the boundaries of such divisions or limits are in some instances uncertain, and in many have become inconvenient to the inhabitants within the same, from the change or increase of trade or population, or from other causes: and whereas doubts have arisen as to the authority by which such divisions or limits may from time to time be constituted, defined, or altered; and it is expedient that such doubts should be removed, and due provision made for the constituting, defining, and regulating from time to time such divisions or limits, as the convenience of the inhabitants within the same may require;" it is enacted, "that at any time or times after the Michaelmas quarter-sessions next following the passing of this act, it shall be lawful for any two or more justices of the peace for any county, riding, or division in England or Wales, having a separate commission of the peace, to transmit to the clerk of the peace a statement in writing, signed by such justices of the parishes, tithings, townships, and places within the same, which, in the opinion of such justices, would form together a convenient and a proper division within and for which special sessions should thenceforward be held; or of any parishes, tithings, townships, or places, which, in the opinion of such justices, ought to be annexed, for the same purposes, to any other division in the said county than those or that of which at the time of making such statement they form part; and that every such statement shall, among other things, set forth within what existing divisions or division, limits or limit, the several parishes, sittings, townships and places enumerated in the same, are situated or deemed to be; and also whether one or more, and what existing divisions or limits will be altered by such proposed new divisions, or by the change of any place or places from one division to another; and also the names of such justices of the peace as at the date of such statement are usually resident or acting as such within the boundaries of such proposed new division."

Sect. 2. "At the quarter-sessions next following the receipt of every such statement, setting forth such particulars as are above enumerated, and not otherwise, the clerk of the peace shall and he is hereby required to lay the same before such justices of the peace in such sessions assembled; and the

justices of the peace for such county, riding, or division, having such separate commission of the peace, shall and they are hereby required (except in the cases hereinafter provided for) to proceed at the quarter-sessions next following the laying of such statement before them as aforesaid, to the consideration thereof, and at their discretion to adopt the same wholly or in part, or to reject the same altogether, or to adjourn their determination thereupon to the next or any succeeding quarter-sessions."

Sect. 3. "Immediately after the quarter-sessions at which such statement shall have been first laid before the justices of the peace, the clerk of the peace shall cause to be published a copy of such statement in three successive numbers of one or more weekly newspapers usually published or circulated within the same county, riding, or division, and in which the advertisements of county business are usually inserted; and at the foot of such copy shall also cause notice to be given that such statement has been laid before such justices in pursuance of the directions of this act, and that the same will be taken into consideration by the court at the then next ensuing quarter-sessions."

Sect. 4. "When and so often as the justices of the peace of any such county, riding, or division, having a separate commission of the peace, shall adopt wholly or in part any such statement so laid before them, and shall determine to change any parish, tithing, township, or place, from one division to another, or to constitute any new division, within which special sessions shall thenceforward be holden, the said justices of the peace shall thereupon make an order for such alteration, or for the constituting and defining such new division, and in such last-mentioned order shall particularly enumerate the several parishes, tithings, townships, and places to be comprised within such new division, and shall also specify the division or divisions within which respectively any parishes, tithings, townships, and places, disannexed by such order from any former division, and not forming part of such new division, shall thenceforward be taken to be, and also shall affix to such new division the name of some principal and convenient parish, township, or place within the same, and also shall, in either of such orders, as the case may be, particularly set down the day from which such order shall take effect; and the clerk of the peace for such county, riding, or division, shall forthwith publish a copy of such order in three successive numbers of one or more such weekly newspapers as aforesaid, and shall transmit a copy of such order to every high constable within the limits of such new or altered division or divisions."

Sect. 5. "Nothing in this act shall be taken to authorize, and that it shall not be lawful for any justices in any court of quarter sessions to make any order constituting such new division, unless upon due proof before them made in open court upon oath, that for two years next before the making of such proof there have been, and at the time of making the same there are, at the least, five justices of the peace residing in or usually acting within the boundary line proposed to be the limits of any such new division."

Sect. 6. "From and after the day so specified in such order, for the term of twenty-one years, and until further order of sessions after the expiration of that time, and subject to no alteration or revision during such term, except as hereinafter provided, all matters and things which by law are now or hereafter may be required to be, or which now are, usually transacted or determined within the division within which the same shall have arisen, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling or usually acting within the same, shall be transacted and determined, so far as the same matters and things arise within or concern the inhabitants of such new or

9 Geo. 4, c. 43.

who are to adopt or reject same (a).

Clerk of peace to advertize statement and other particulars in newspapers.

If justices approve, an order to be made for constituting a new division, and clerk of peace to publish same (a).

No new division to be constituted unless five justices at least shall be proved to be resident therein.

New divisions to be deemed lawful divisions for holding special or petty sessions, or other meetings of justices.

(a) Where an order for altering the arrangement of parishes, townships, &c., of any county for the convenience of holding special sessions, has been made under sects. 2, 4, there is no appeal against it. Sects. 8 and 9 apply to orders made under the authority of sect. 7 only. (*R. v. Derbyshire Justices*, 1 D. P. C. 386.)

9 Geo. 4, c. 43.

Justices at sessions to cause inquiry into extent of divisions, and alter same, and affix names thereto.

Clerk of peace to publish a copy of such order.

Order to specify time when it shall be enrolled.
Parties allowed to petition against such order (a).

altered division, or any of them, or the persons exercising their trade or calling therein, within the boundaries of such new or altered division; and such new or altered division shall thenceforward be, and be reputed and taken to be, for all purposes, and in the construction of all statutes now in force or hereafter to be made, and containing no special provision to the contrary, a lawful division for the holding of special sessions; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee-houses, and victualling-houses, and other persons, shall and they are hereby thenceforward required to give their attendance to and upon such justices of the peace at any time assembled in such special sessions, within the same division, as fully and effectually as by law they had been bound to do within any division reputed or taken before the passing of this act to be a lawful and accustomed division of justices for the purposes aforesaid."

Sect. 7. "At the quarter sessions next after the laying of any such statement before the justices in such sessions assembled, it shall and may be lawful for such justices, if they shall deem it expedient and proper, not to proceed to the single consideration of such statement, but, instead thereof, to cause to be made an inquiry and examination into the boundary lines, extent, and other local circumstances, of all the existing and accustomed divisions for the holding of special sessions within the commission of such justices; and at such or any succeeding quarter sessions, to which the conclusion of such inquiry and examination may, from time to time, be adjourned, by order of sessions, to regulate, alter, new-model, and subdivide, all or any of such divisions, in such manner as shall appear to them proper and convenient, particularly specifying in such order the names of all such divisions, whether newly constituted, altered, or unaltered, the several parishes, tithings, townships, and places, to be comprised in each, and affixing or continuing to each the name of some principal and convenient parish, township, or place within the same."

Sect. 8. "That the clerk of the peace for any county, riding, or division, in which such order shall have been made as last aforesaid, shall forthwith publish a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also forthwith transmit, by the post, a copy of the same to the churchwardens and overseers of the poor of each parish within the said county, riding, or division, to be by them affixed on the principal door of the church of such parish; and at the foot of every such copy so published or transmitted shall add a notice specifying at what time such order will be enrolled as hereinafter provided, and at what time and in what manner any person or persons, or body corporate, aggrieved by such order, may petition against the same, or any part thereof, as hereinafter provided."

Sect. 9. "In every such order, some time, not earlier than the fourth quarter sessions next after the making thereof, shall be provisionally specified, on which the same shall be enrolled as hereinafter provided, subject to such alteration as may thereafter be made either in the particulars of the said order, or in the time of its enrolment; and that at any court of quarter sessions preceding such time, it shall and may be lawful for any one or more person or persons, or body corporate, jointly or severally, to present a petition in writing to such court, against all or any part of such order, and to produce witnesses in support of such petition: and the justices at such court assembled shall and they are hereby required to hear and determine, in a summary way, the merits of such petition, and to amend such order so far as may, upon such hearing, appear proper and convenient: provided always, that no such petition shall be received or examined into, unless after due proof that a notice in writing, specifying the grounds thereof, which upon the hearing shall alone be inquired into, hath been served, ten clear days before the commencement of such sessions, upon one of the overseers of the

(a) Sects. 8 & 9 apply to orders made under sect. 7 only. *R. v. Derbyshire Justices*, 1 D. P. C. 386.

poor, or the tithingman or constable, or two substantial housekeepers of the parish, tithing, township, or place respectively, as the case may be, wherein such petitioner or petitioners shall be resident at the time of presenting such petition, and also lodged, twenty clear days before such commencement, at the office of the clerk of the peace, who shall and he is hereby required forthwith to transmit a copy thereof to each of the justices usually acting within or for the district or places or place named in such notice."

Sect. 10. "So soon as all such petitions against such order shall have been determined, and such amendments made therein as shall have appeared necessary or proper, the justices at such quarter sessions shall cause to be inserted therein some day not earlier than one month after such sessions from which the same shall take effect, and shall cause the same order to be enrolled, and the same shall remain an order of sessions, controlling any order or orders of sessions heretofore made for the separate constitution of any new divisions, or the partial alteration of any accustomed divisions, under the former provisions of this act, and not subject itself to revocation or alteration of any kind for the space of ten years thence next ensuing; and during such ten years no such statement shall be received or proceedings had thereon as above mentioned, but during all that time, and until further order of sessions after the expiration of that time, the several divisions, as limited, modelled, or constituted in and by such order, shall be and be taken to be, for all the purposes in this act mentioned, the lawful divisions of such county, riding, or division, having such separate commission of the peace, for the meetings of justices in special sessions, under any statute now in force, or hereafter to be made, and containing no special provision to the contrary: and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee-houses, and victualling-houses, and other persons, shall and they are hereby required thenceforward, during the time last above limited, to give their attendance to and upon the justices of the peace at any time assembled in such special sessions, within the same divisions respectively, as fully and effectually as by law they have been bound to do within any division reputed and taken before the passing of this act to be a lawful and accustomed division for the meetings of justices for any of the purposes aforesaid." [See this altered by the 6 Wil. IV. c. 12, *infra*.]

Sect. 11. "Immediately after the enrolment of such order, the clerk of the peace shall and he is hereby required to cause to be published a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also transmit one copy thereof to each justice of the peace dwelling within or usually acting within and for such county, riding, or division, having such separate commission of the peace."

Sect. 12. "No order to be made, nor any proceeding to be had or taken, in pursuance of this act, shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatever, into any of his majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding."

Sect. 13. "Nothing in this act contained shall extend or be construed or taken to extend to the county of Middlesex in England, or to Scotland or Ireland."

By the 6 Wil. IV. c. 12, intituled "An Act for amending an Act of the Ninth Year of the Reign of his late Majesty King George the Fourth, intituled 'An Act for the better Regulation of Divisions in the several Counties of England and Wales,'" [20th May, 1836,] reciting, "Whereas by an act passed in the ninth year of his late majesty king George the Fourth, intituled 'An Act for the better Regulation of Divisions in the several Counties of England and Wales,' it is amongst other things enacted, that such divisions, when severally constituted in the manner directed by the said act, shall be subject to no alteration or revision for the several terms of twenty-one and ten years respectively, and until further order of sessions after the expiration of such terms of twenty-one years and ten years respec-

9 Geo. 4, c. 43.

Order to be enrolled as soon as petitions against the same have been determined, and shall not be subject to alteration for ten years.

Clerk of peace to publish copy of enrolment.

Proceedings not to be quashed for want of form.

Not to extend to Middlesex, &c.

6 Wil. 4, c. 12.

9 Geo. 4, c. 43.

6 Wil. 4, c. 12.
4 & 5 Wil. 4, c. 76.

Justices at quarter sessions may alter divisions after three years from the constituting thereof.

New divisions may be constituted if five justices are resident or acting therein.

Forms, &c. to be similar to those in 9 Geo. 4, c. 43.

Reservation of right of appeal.

Proceedings not to be quashed for want of form.

Not to extend to Middlesex, Scotland, or Ireland.

tively: and whereas it may be expedient that such divisions should have the same limits as unions of parishes formed under the act of the fourth and fifth years of his present majesty, intituled 'An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales;' and for this and other reasons it may be expedient to alter such divisions within shorter periods of time than are now fixed by the herein recited act:" it is enacted, "that it shall be lawful for the justices of the peace for any county, riding, or division having a separate commission of the peace, in any court of quarter sessions, to alter and revise such divisions in the manner and according to the forms required by the said herein recited act, on the expiration of three years from the constituting thereof, any thing in such act contained to the contrary notwithstanding."

Sect. 2. "It shall be lawful for the justices as aforesaid at such quarter sessions to make any order constituting any new division, upon due proof before them made in open court on oath, that at the time of making the same there are at the least five justices of the peace residing or usually acting within the boundary line proposed to be the limit of any such new division, but not otherwise."

Sect. 3. "All matters and things by the said herein recited act required to be done by and with regard to the clerk of the peace shall be done by and with regard to that officer with respect to the new divisions to be formed by virtue of this act."

Sect. 4. "Provided, that every such order shall be made subject to such power of petitioning against the same as is given by the said herein recited act with respect to any order made by virtue thereof."

Sect. 5. "No order to be made nor any proceedings to be had or taken in pursuance of this act shall be quashed or vacated for want of form, or be removed by *certiorari*, or any other writ or process whatever, into any of his majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding."

Sect. 6. "Nothing in this act contained shall extend or be construed or taken to extend to the county of Middlesex in England, or to Scotland or Ireland."

The reader who wishes further information as to the ordinary occasions of holding these sessions, and the statutes under which they are summoned, is referred to the different subjects, as arranged in titles through this work. The last act, 9 Geo. IV. c. 61, relating to the licensing and government of alehouses, &c., is a very important one, so far as regards the directions contained therein for the holding an annual special session, and other special sessions auxiliary thereto, for the accomplishment of its purposes. It will be found under title "*Alehouse*," Vol. I.

Clerk to Justices.

As to the office of clerk to the justices in petty sessions, see *ante*, 588.

Sewers.

Statutes as to.

BY the 23 Hen. VIII. c. 5, commissions of sewers shall be issued in all parts of the realm, where need shall require.

And by the 13 Eliz. c. 9, for one year after the expiration of a commission of sewers, the justices of the peace, or six of them (two of them being of the *quorum*), may execute the powers of the said commission, unless a new commission shall be issued in the meantime.

But as the power and authority of these commissioners of sewers is not general enough to fall in with the design of this book, those whom it may particularly concern are referred to the statutes at large which treat of this title; namely,

23 Hen. VIII. c. 5.

25 Hen. VIII. c. 10.

3 & 4 Edw. VI. c. 8.

7 Anne, c. 10.

Beside which general acts, there are others which concern the cities of London and Westminster only, and other places within the bills of mortality ; to wit,

3 Jac. c. 14.

19 Car. II. c. 3, s. 20.

22 & 23 Car. II. c. 17.

2 Wil. III. sess. 2, c. 8.

8 & 9 Wil. c. 37.

47 Geo. III. c. 7.

The 7 & 8 Geo. IV. c. 17, after reciting that it is expedient to extend the provisions of the 57 Geo. III. c. 93, (which is an act to limit the charges of brokers on distraining for rents not exceeding 20*l.*, *ante*, "*Distress*," Vol. I.,) "to distresses for other cases," enacts, "that from and after the passing of this act all the rules, regulations, clauses, provisions, penalties, matters, and things in the said act contained, shall extend and be construed to extend, and shall be applied and put in execution, so far as the same are applicable and capable of being put in execution, with respect to any distress or levy which shall be made for any land tax, assessed taxes, poors' rates, church rates, tithes, highways rates, sewer rates, or any other rates, taxes, impositions, or assessments whatever, in all cases where the sum demanded and due for or in respect of such taxes, rates, tithes, assessments, or impositions shall not exceed the sum of 20*l.*, and in all cases where the whole of the several sums sought to be levied by distresses taken for different purposes at the same time shall not exceed the sum of 20*l.*; and that such costs and charges, and no other, shall be taken and payable as the costs and charges of the levy and disposition of such distresses; and that all such proceedings shall and may be had and taken against any and every person transgressing the regulations of the said act in the levying or distraining for any such taxes, rates, impositions, or assessments, and all such persons shall be liable to and shall incur such and the like penalties, as by the said act are directed, required, and imposed with respect to persons making any distress for rent contrary to the directions of the said act; and that in any order or judgment of any justices before whom any complaint shall be preferred in consequence of this act, such order shall be expressed to be made upon a complaint for the breach of the said recited act, as amended by this act; and that the said recited act and this act shall be taken and construed together as one act, to all intents and purposes whatsoever."

Costs of distresses for sewers' rates.

Provisions of recited act extended to distress for taxes, rates, tithes, &c.

The 7 Geo. IV. c. 64, s. 18, with respect to property under commissioners of sewers, enacts, "that in any indictment or information for any felony or misdemeanor committed on or with respect to any sewer or other matter within or under the view, cognizance, or management of any commissioners of sewers, it shall be sufficient to state any such property to belong to the commissioners of sewers within or under whose view, cognizance, or management any such things shall be, and it shall not be necessary to specify the names of any of such commissioners." See, *ante*, "*Indictment*," Vol. III., p. 430.

In indictments for offences committed on sewers, property may be laid in commissioners.

By 3 & 4 Wil. IV. c. 22, s. 52, "for the better carrying into execution the powers and authorities of the said commissioners of sewers, be it further enacted, that all and every chief and petty constables, headboroughs, and tithingmen, or by whatsoever other name or names such chief or petty constables may be called or known, and other peace officers, of or within the respective hundreds, parishes, townships, liberties, districts or places within the jurisdiction of the said respective courts, shall and they are hereby authorized and required to obey and execute all and every the orders, warrants, precepts, or other process which may be to them directed by the said commissioners; which said commissioners respectively are hereby authorized to direct such their orders, warrants, precepts, or other process to such chief or petty constables, headboroughs, tithingmen, and other peace officers accordingly."

Constables to obey orders of commissioners.

The commissioners of sewers have jurisdiction over a sewer communicating with a navigable stream, or with the sea above the point where the tide ebbs and flows, if it be useful for navigation, and if the place over which the jurisdiction is, is likely to be benefited by it. (*Dore v. Gray*, 2 T. R. 358.)

Decisions as to jurisdiction of commissioners and rates, &c.

Sewers.

Sewer rates may be made to reimburse the charges of making such sewers. (*Case of the Level of Hull*, 2 Str. 1127.)

If a sea-bank, or wall, which the owners of particular lands are bound to repair, be destroyed by tempest, without any default in such owners, the commissioners of sewers may order a new one (in a different form, if necessary,) to be erected at the expense of the whole level. (*R. v. Commissioners of Sewers for Western Division of County of Somerset*, 8 T. R. 312.)

The commission of sewers extends only to navigable streams, unless within two miles of London. (*Yeaw v. Holland*, 2 Bla. Rep. 717.)

Where, in a large district, placed under one set of commissioners of sewers by the same commission, there were six separate lines of sewers, by which six several levels or divisions (into which the district was divided) were separately drained, and no one level derived benefit from the sewers in the others: held, that the commissioners ought to make a separate rate upon each level or division, for the maintenance of the sewers by which it was drained, and not one equal rate upon the whole district, for the maintenance of all the sewers within it. (*R. v. Commissioners for Tower Hamlets*, 4 Man. & Ry. 365; 9 B. & C. 517.)

The 23 Hen. VIII. c. 5, s. 17, having directed that "laws, acts, decrees, and ordinances," made by commissioners of sewers, shall stand good, and be put in execution so long time as their commission endureth, and no longer, except "the said laws and ordinances" be engrossed on parchment, and certified under the seals of the commissioners into Chancery, and have the royal assent; and the 13 Eliz. c. 9, having directed all commissions of sewers to continue in force for ten years, unless sooner determined by *supersedeas*, or any new commission, and that all "laws, ordinances, and constitutions," made by force of such commission, being written on parchment, indented, and under seals, &c., shall, without such certificate or royal assent, continue in force, notwithstanding the determination of the commission by *supersedeas*, until repealed or altered by new commissioners; and that all such "laws, ordinances, and constitutions," written in parchment, indented, and sealed, &c., shall, without certificate or royal assent, continue in force for one year after the expiration of such commission, by lapse of ten years from its *teste*: held, 1st, that the laws, acts, decrees, and ordinances, mentioned in the statute of Hen. VIII., mean the same as the laws, ordinances, and constitutions, mentioned in that of Elizabeth; and, 2ndly, that a decree made by commissioners, under a former commission, which had expired by a lapse of ten years, directing a sea-wall to be re-founded, which had been destroyed by a violent tempest and inundation, and the sums necessary for its construction to be advanced by those who were before bound to sustain it *ratione tenuræ* (and who did advance the money accordingly), and that a rate should be made on the level for their reimbursement (although such decree had been written in parchment, indented, and sealed, which this was not,) could not be enforced by commissioners under a new commission issued more than a year after the expiration of the former commission, as to so much of it as remained unexecuted, though good to the extent to which it had been executed; and therefore this court refused a *mandamus* to the new commissioners, to direct a rate to be levied on the level for the reimbursement, directed by the decree. (*R. v. Somerset Commissioners of Sewers*, 9 East, 109; 3 Smith, 105, S. C.)

Where the owner of marsh lands was bound by the custom of a sewage level to repair the sea-walls abutting on his own land, and by an extraordinary flood-tide the wall was damaged, the court refused to grant a *mandamus* to the commissioners of sewers to reimburse him the expense of the repairs; it appearing, by affidavit, that the wall had been previously presented for being in bad repair, and was out of repair at the time the accident happened: nor can the other landowners in the level be called upon to contribute to the repairs of such a wall. (*R. v. Essex Commissioners of Sewers*, 2 D. & R. 700; 1 B. & C. 447, S. C.)

Under the statutes of sewers, every person whose property derives benefit from the works of the commissioners is liable to be rated, although the benefit be not immediate.

Thus, where a case stated that the eastern wing of Somerset House was drained by the Board of Works, and had no communication with the common sewer running under the body of Somerset House, and being under the jurisdiction of the commissioners, and that the buildings derived no benefit from the sewer, except the general advantage of being accessible, and of the approaches and neighbouring public ways being properly drained and cleansed: it was held that the occupiers of the eastern wing were rateable for the common sewer.

Semble, that in an action of trespass against the commissioners for levying a rate, if it appeared that they had jurisdiction the court would not inquire whether the rate was proportioned to the benefit received from the sewage by the party rated.

Under the sewers act, 52 Geo. III. c. 48, (local and personal, public), s. 7, the party rated to the poor as the occupier of the premises is to be considered as the occupier for the purpose of assessment to the sewers rate, although in point of fact the occupancy is questioned. (*Soady v. Wilson*, 4 Nev. & M. 477; 3 Adol. & Ell. 248.)

The commissioners of sewers cannot assess a person in respect of drains which communicate with other drains that fall into the great sewer, if the level of his drains be so much above the sewer that the stopping of the sewer could not possibly throw back the water so as to injure his premises, and if he be not, and it does not appear that he is likely to be, benefited by the works done upon the sewer. (*Masters v. Scroggs*, 3 M. & Sel. 447.)

A tenement in the king's dock-yard, deriving a benefit from public sewers, and occupied by an officer of government who pays no rent, is still liable to be rated to the sewers. (*Netherton v. Ward*, 3 B. & Ald. 21.)

Commissioners of sewers may make a rate to defray the expenses of works already done. In order to justify such a rate, it is not necessary that there should have been a previous presentment by a jury of those works.

It is no valid objection to such a rate, that it is made to defray the previous law expenses of the commission *bonâ fide* incurred by the commissioners in the discharge of their duty.

Nor that the rate is in the alternative, to defray the expenses of works done *or to be done*, for the word *or* must be read *and*. (*R. v. Commissioners of Sewers for the Tower Hamlets*, 1 B. & Adol. 322.)

A decree by the commissioners of sewers is not conclusive against the party assessed for the payment of a rate, and who resides within the district over which they have jurisdiction; but such party may prove, in an action of trespass brought by him against one of the collectors of the rates, for taking his goods to satisfy such rate, that he derived no profit from the sewer in respect of which the assessment was made; and such evidence having been rejected at *Nisi Prius*, the Court of Common Pleas granted a new trial. (*Stafford v. Hamston*, 5 Moore, 608; 2 B. & B. 691, S. C.)

By the 23 Hen. VIII. c. 5, the jury by whom a presentment is made to commissioners of sewers, concerning what lands are within a level, and subject to a certain rate, ought to be summoned by the sheriff from the body of the county, in pursuance of a precept directed to him from the commissioners for that purpose. (*R. v. Somerset Commissioners of Sewers*, 7 East, 71; 3 Smith, 105, S. C.)

And a presentment made by a standing jury, constituted according to ancient usage, originally returned by the sheriff at the commencement of every new commission of sewers from certain parishes or districts, composed of land-owners there interested in disclaiming the general charges of the level, which jurymen acted for life, unless removed for cause, and only the foreman of whom was summoned by the sheriff on the particular occasion, which foreman thereupon convened the other jurymen, is illegal and void, and the want of jurisdiction of such presenting jury cannot be waived by traversing their presentment, and going to trial before another jury properly returned from the body of the county by whom such presentment was confirmed. The presenting jury, after being sworn and charged, must also prosecute their inquiry, upon hearing evidence on oath before the commis-

sioners in *curia*, and make their presentment thereon, and not upon information collected in *pais*, without oath. (*R. v. Somerset Commissioners of Sewers*, 7 *East*, 71; 3 *Smith*, 105, S. C.)

And where the precept to the sheriff was to summon "good and lawful men of your county, and resident within the Tower Hamlets," that being the district over which the commissioners had jurisdiction, it was held bad, and a presentment made by that jury, and all the subsequent proceedings founded on it, were declared to be void. (*Birkett v. Crozier*, 3 C. & P. 63; 1 M. & M. 119, S. C.)

A jury impannelled to inquire and present at a court of commissioners of sewers, presented that A. was benefited by the sewers, and he received a summons to show cause why he should not pay; he neglected to traverse the presentment, and a distress was levied for the amount of the rate: held, that these facts were a justification in an action of trespass for taking the distress, as the presentment, if duly made and not traversed, justified the commissioners in issuing the warrant of distress. (*Warren v. Dix*, 3 C. & P. 71, n.)

The presentment need not contain the name of every person benefited; if it find "all Fore Street" to be benefited, that is enough to include every one having a house there; and every one so having a house might traverse such presentment, he stating in his traverse that his property is so situated, and that he is aggrieved by the presentment. (*Id.*)

The warrant of distress need not recite the presentment. (*Id.*)

The defendant is not entitled to recover his treble damages under the 23 Hen. VIII. c. 5, s. 12, in case of a verdict in his favour, or a nonsuit, unless he claims them on the record. (*Id.*)

By act of parliament, empowering certain persons to make a floating harbour at Bristol, it was enacted that it should and might be lawful for the directors of the Bristol Dock-Company, and they were thereby authorized and required, to make a common sewer in a certain direction, therein specified, and also to alter or re-construct all or any of the sewers of the said city, at the mouths thereof, so and in such manner that the sewers might be discharged considerably under the surface of the water in the floating harbour; and also to make such other alterations and amendments in the sewers of the said city as might or should be necessary, in consequence of the floating of the said harbour. The directors altered several of the sewers, so as to discharge them considerably under the surface of the water in the floating harbour; but the sewage there discharged was so offensive, as to be a nuisance to the neighbourhood: held, that under the latter part of the clause set forth, the directors were authorized and required to make a new sewer, if necessary, to remove the nuisance. (*R. v. Bristol Dock Company*, 6 B. & C. 181; 9 D. & R. 309.)

Where A. was fined by commissioners of sewers for refusing to be re-sworn by a standing jury, the court discharged the fine, it being admitted that it was not usual to re-swear the jury except upon the issuing of a new commission. (*Ex parte Taylor*, 3 Y. & J. 91.)

The court will not, upon an application to discharge an amercement, enter into a disputed question as to the validity of the court of sewers. (*Id.*)

The court refused to exercise jurisdiction against commissioners of sewers, to restrain their removing a float, or tumbling-bay, upon a river, such removal being stated to be irreparable mischief. (*Kerrison v. Sparrow, Coop.* C. C. 305.)

A local act provided that no ditch, &c. should be arched over, &c. without the consent of the trustees under the act, under a penalty of 50*l.*: held, that a surveyor, who after a sewer had been commenced directed it to be continued (without the consent of the trustees), had incurred the penalty. (*Woodward v. Cotton*, 1 C. M. & Rosc. 44.)

Where bricklayers employed by the commissioners of sewers to repair a public sewer, performed the work in such a manner as to occasion a damage to a neighbouring house: held, that they were liable to an action, although

the work itself appeared to be performed in a skilful manner. (*Jones v. Bird*, 1 D. & R. 497; 5 B. & Ald. 837, S. C.)

Sewers.

The commissioners of sewers cannot maintain an action of trespass against the commissioners of a harbour, for breaking down a wall or dam erected by the former as such commissioners across a navigable river; as the authority to be exercised by them, on the behalf of the public, does not vest in them such a property or possessory interest as will enable them to maintain such action. (*Newcastle, Duke, v. Clark*, 2 Moore, 666; 8 Taun. 602, S. C.)

A local act of parliament, enacting, that, for the better and more effectual execution of the act, all the lands, &c., within a certain district (previously within the jurisdiction of the general commissioners of sewers), and the works, drains, sewers, &c., thereof, should be subject only to the controul, &c., and jurisdiction, of local commissions thereby appointed, and not to the controul, direction, survey, or order, of any commissioners of sewers, does not discharge the inhabitants of the district from their liability to serve on juries at the sessions at sewers, without an express provision; nor will the Court of Exchequer discharge the estreats of fines imposed by the sessions, and levied on such inhabitants, for refusing to attend when summoned, and the mode of proceeding by which the question was brought under the consideration of the court was by a rule to show cause why the estreats should not be discharged, the commissioners of sewers having refused to join in framing an issue to enable the parties to try the question at law. (*Ex parte Owst*, 9 Price, 117.)

As to continuing under a new commission proceedings commenced under an old one, see *Saunders v. Taylor*, 9 B. & Cres. 43.

Sexton.

The sexton (*segsten*, *segerstane*, the keeper of the things belonging to Divine Worship) is usually chosen by the parish, though sometimes by the minister, where an usage to that effect prevails. His salary depends upon custom, and is paid by the churchwardens. His fees are generally settled by order of the vestry, and a table of them is hung up in the vestry-room, or in the church. (*Shaw, Par. L.* 71; *Steer, P. L.* 102.)

How chosen.

His business is to keep the church clean swept and adorned, to open the pews, to make and fill up the graves for the dead, and to provide, under the direction of the churchwardens, candles and necessities belonging to the church, to get the linen washed, &c., to attend during Divine Service, to keep out excommunicated persons, and to prevent any disturbance in the church. (*Id.*)

Duty of.

Sextons are considered by the common law to have freeholds in their offices; and, therefore, if they be improperly removed, or for alleged misconduct, a *mandamus* lies to restore them; (*R. v. Kingscleere*, 2 Lev. 18; *Salk.* 428; *Ile's Case*, 1 Ventr. 153;) for though they may be punished, they cannot be deprived by ecclesiastical censures. (2 Roll. Ab. 234; *Bac. Ab. Mandamus, C.*)

A freehold office.

But a return to a *mandamus* that L. C. was not duly elected sexton according to the ancient custom, and that there is a custom for the inhabitants to remove *at pleasure*, and that L. C. was removed pursuant to such custom, is good. (*R. v. Churchwarden of Taunton*, 1 Cowp. 413.) So, upon a return to a *mandamus*, that the sexton held his office *at pleasure*, the court decided this to be sufficient, as there was no certificate that he was chosen for life. (*R. v. the Churchwardens of Thame*, 1 Stra. 115.)

In the case of *Olive v. Ingram*, Stra. 1114, two points were made. First, whether a woman was capable of being chosen sexton; and secondly, whether women could vote in the election. As to the first, the court seemed

Female sexton.

Sexton.

to have no difficulty about it, there having been many cases where offices of greater consequence have been held by women, and there being many women sextons at that time in London. The authorities cited upon this point were :—*Spelman's Gloss*, 497, a woman appointed governor of Chelmsford workhouse. (2 *Ld. Raym.* 1014.) Lady Broughton's case, who was keeper of the Gatehouse. (3 *Keb.* 32; 4 *Inst.* 221; *Dy.* 285; *Hob.* 148.)

And in Brady's "History of Boroughs," it appears that Lady Parkington was returning officer for members at Aylesbury; and the Countess of Pembroke, Dorset, and Montgomery, had the office of hereditary sheriff of Westmoreland, and exercised it in person, sitting with the judges on the bench at the assizes at Appleby. (*Har. Co. Lit.* 326.)

Female electors.

As to the second point, though women cannot vote for members of parliament, or coroners, yet the court, notwithstanding, held, that this being an offence that did not concern the public, or the care or inspection of the morals of the parishioners, there was no reason to exclude women, who paid rates, from the privilege of voting, and no usage of excluding them was stated, which might have altered the case. (*Id. Steers, P. L.* 103.)

United parishes.

Where two parishes were united after the fire of London, and one set of officers elected at a joint vestry had served for both, and the office of sexton had been filled in the same way upon nine successive vacancies, and the salary had been paid in equal proportions by both parishes, but afterwards one of the parishes claimed to elect a separate sexton, of which they had given notice to the other, in such case, that other parish cannot maintain an action for money paid to the use of the first parish, for their *quota* of the sexton's salary, for this was paid against their *express consent*. Nor can the right of the sexton be tried in such case without his being a party thereto; nor can he bring his action in such case against both parishes on a *joint* obligation, or against one of them only for the *whole* sum. (*Stokes v. Lewis*, 1 *T. R.* 20.)

Divided parishes.

In the recent statutes for the erection of additional churches, provision is made for the protection of the interests of sextons in those cases where it is found expedient to create new parishes. The 59 Geo. IV. c. 134, s. 10, enacts, "that when any parish shall be divided under the provisions of those acts, all fees, dues, profits, and emoluments, belonging to the parish clerk, or sexton, respectively, of any parish so divided, shall belong and be recoverable by the clerks and sextons respectively of *each division*, to which they shall be assigned, in like manner and after the same rate as they were recoverable by the clerk and sexton respectively of the original parish; and the commissioners may make compensation for any loss of fees, or emoluments, which any clerk or sexton may sustain, by reason of any such division."

Settlement.

The office of sexton, like that of parish clerk, confers a right of settlement; and if the churchyard lie in *two* parishes, the sexton may gain a settlement in the one in which he resides, although no part of the church lies within that parish. (*Rex v. Liverpool*, 3 *T. R.* 118.)

Church keys.

In a case where after a contested election for the office of sexton, an application was made for a *mandamus* to deliver up the keys of the church to the successful candidate, Lord Ellenborough said, "Why did they not get new keys? The keys of the church are not like an emblem of office, or the like. If it will probably prevent any breach of the peace we will grant it, but you had better get a new key." (2 *Chitty, R.* 255; and see *Steer, P. Law*, 104.)

Sheep.

[25 Hen. VIII. c. 13; 38 Geo. III. c. 65.]

AS to Sheep-stealing, see the 7 & 8 Geo. IV. c. 29, s. 25, and cases under title "**Larceny**," Vol. III. p. 674, 675.

As to Cruelty to, see "**Cattle and Animals**," Vol. I. p. 587.

As to Slaughter-houses for Sheep, see "**Horses**," Vol. III.

As to the Exportation of Sheep, see, *post*, "**Woollen Manufactories**."

The 25 Hen. VIII. c. 13, for the preventing many farms being accumulated into few hands, and for the encouragement of tillage, enacts that no person shall have above two thousand sheep at one time, at six score to the hundred, except it be upon his own inheritance only, and except what are necessary for his household, on pain of forfeiting 3s. 4d. for every sheep above that number, half to the king, and half to him that will sue.

None shall have above 2000 sheep.

And if any person shall happen to have more, by reason of being executor or administrator, he shall sell off within a year, till he have 2000.

But sheep bequeathed to a child within age shall not be reckoned in the number.

Lambs are not to be reckoned sheep till the second Midsummer after they are lambled.

When lambs are deemed sheep.

And the justices of the peace may inquire of this offence by a jury, or by information.

By the 38 Geo. III. c. 65, s. 1, "if any person or persons whosoever shall turn out, keep, or depasture, in or upon any forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, any sheep or lambs infected with such complaint or disorder called scab or mange, or shall wilfully and knowingly turn out, keep, or depasture, in or upon any such forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, any sheep or lamb which, at any time within the space of six calendar months immediately previous thereto, shall have been infected as aforesaid, every such person, on being thereof convicted on the oath of one or more credible witness or witnesses, or on his or her confession, before any one or more justice or justices of the peace for the county, district, or place, wherein such offence shall have been committed, shall forfeit and pay any sum not exceeding 10*l.*, nor less than 20*s.*, for every such offence, together with all reasonable costs and charges attending such conviction, such costs and charges to be ascertained by the justice or justices before whom such conviction shall take place; and so *toties quoties*, as often as any such sheep or lamb shall be so turned out, kept, or depastured."

Turning out scabbed sheep on commons, &c.

Sect. 2. "The owner or owners of each and every sheep and lamb of the age of three months, which shall be turned out, kept, or depastured, on any forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, shall cause such sheep and lambs to be marked with the initial letters of his, her, or their christian name and surname, or christian names and surnames, or with such marks with which such sheep or lambs have for three preceding years been usually marked, such letters or marks not being less in length than three inches; and in case of neglect thereof, the owner or owners shall, for each and every such sheep and lamb not so marked, forfeit and pay any sum not exceeding 2*s.*, and so *toties quoties*, as often as any such sheep or lamb not so marked shall have been so turned out, kept, or depastured."

Sheep and lambs three months old to be marked.

Sect. 3. "For the better and more effectually discovering the offenders, and punishing the offences herein mentioned, it shall and may be lawful to and for any person or persons having sheep or lambs actually depasturing, or entitled to be depastured, on such forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, who

Persons having a right on commons, &c., may complain to a justice, and have suspected sheep examined.

38 Geo. 3, c. 65.

If not found defective, to be returned to the place from which taken.

If found defective, to be marked, and delivered, on demand, to the owner.

shall perceive, or have reasonable ground or foundation for believing, that there is or are any sheep or lambs, sheep or lamb, depasturing or being in or upon the same, contrary to the direction and provisions of this act, to apply to any one or more justice or justices of the peace of the county, district, or place, wherein such lands severally do lie, who, upon complaint on oath made thereof before him or them, is and are hereby authorized and required to issue a warrant or warrants under his hand and seal, or their hands and seals, directed to the keeper or keepers of the said forests or chases, or his or their deputy or deputies, or to the petty constable or constables, bailiff, headborough, or tithingman, of any parish, hamlet, or township, within or near which any such forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, shall lie and be situate, or unto any other person or persons, who shall consent and be willing to be inserted in such warrant or warrants, and shall command and empower him or them, or any of them, to take or drive all and every such sheep and lambs, sheep and lamb, to the next pound, or to some other convenient place, there to be examined by the person or persons who shall have made such application to such justice or justices as aforesaid, his, her, or their servant or agent, and by the person or persons to whom the said warrant shall be directed, any or either of them, notice being first given six hours at the least before such examination shall take place, by the person or persons making such complaint, or by his, her, or their servant or agent, to the owner or owners of such sheep or lambs, sheep or lamb, or unto his, her, or their hind, bailiff, or servant, or left at his, her, or their last or usual place of abode, if any or either of them be known, and do reside in the parish or parishes, hamlet or hamlets, township or townships, where such sheep or lambs, sheep or lamb, shall have been so found, describing the pound or place the same have been taken or driven to, in order that he, she, or they may, should he, she, or they judge proper, be present at such examination; and if, after such examination, it shall be proved to the satisfaction of the justice or justices granting such warrant or warrants, that such sheep or lambs, sheep or lamb, have or hath not been kept or depastured in or upon such lands and grounds, contrary to the directions and provisions of this act, then and in such case each and every such sheep and lamb shall be taken and driven back to the place or places from whence it was taken or driven previous to such examination, and such justice or justices shall award such costs, charges, and damages to the owner or owners thereof, as to him or them shall seem reasonable; and such costs, charges, and damages, shall be paid by the person or persons making such complaint, and shall be recovered in like manner as any forfeitures or penalties are by this act directed to be recovered."

Sect. 4. "If, upon any such examination, it shall appear to such justice or justices, that any such sheep or lambs, sheep or lamb, have or hath been turned out, kept, or depastured in or upon any such lands or grounds, infected as aforesaid, or which at any time within the space of six calendar months immediately previous thereto shall have been infected as aforesaid, then and in such case the said justice or justices shall and may direct the same to be impounded, detained, and kept, and to be forthwith marked on both sides with the letter S (the length of such letter not being less than five inches), such marks to be made with pitch or tar, or some other adhesive material, such as sheep have been usually marked with in the neighbourhood, and shall also cause the left ear of each such sheep and lamb to be cut or slit in a horizontal line (such cut or slit not exceeding the length of one inch), and the same, when so marked, shall be delivered, upon demand, to the owner or owners thereof; and the costs, charges, and expenses attending the taking, driving, keeping, impounding, and marking of the same, having been ascertained by such justice or justices, shall be paid by the owner or owners of such sheep or lambs, sheep or lamb, together with the penalties and forfeitures imposed by this act, for each and every such sheep and lamb, and such costs, charges, and expenses shall be recovered in like manner as any penalties or forfeitures imposed by this act are directed to be recovered; and

any such mark or marks, when made, shall be, and be deemed evidence of the fact that such sheep or lambs, sheep or lamb, have been turned out, kept, or depastured, contrary to the directions and provisions of this act, without any other evidence whatsoever."

Sect. 5. "If any person or persons, at any time within the space of six calendar months after any such sheep or lambs shall have been so marked as directed by such justice or justices, shall cut out, alter, or destroy the mark herein directed to be made in the ear of any such sheep or lambs, or if the owner or owners of any such sheep or lamb shall not immediately renew or cause to be renewed, in like manner, the mark or marks herein directed to be made in the side or sides of every such sheep or lamb, when and as often as such mark or marks on the side or sides shall be defaced, altered, obliterated, or destroyed, by any means whatsoever, every such person, for each and every sheep and lamb, the said mark in the ear of which shall have been by him or her so cut out, altered, or destroyed, and such owner or owners, for each and every sheep and lamb, not having the said mark or marks on the side or sides thereof, immediately renewed as aforesaid, shall forfeit and pay, on conviction, any sum not exceeding 20s., nor less than 2s.; and the justice or justices before whom such conviction * be had, shall, and he and they is and are hereby required to cause every such mark so cut out, altered, defaced, obliterated, or destroyed, to be immediately renewed, and the sheep or lambs, sheep or lamb, to be detained and impounded until every such mark shall have been renewed."

Persons destroy-
ing marks, and
owners not re-
newing them.

* Sic.

Sect. 6. "If such sheep or lambs, sheep or lamb, so detained or impounded, shall not be demanded and taken away by the owner or owners thereof within five days after the same shall have been so marked as aforesaid, it shall and may be lawful to and for any justice or justices of the peace of the county, district, or place, in which such sheep or lambs, sheep or lamb, shall have been so detained or impounded, by warrant under his or their hand and seal, or hands and seals, to direct the same to be sold, and the money arising by such sale, after deducting the costs, charges, and expenses of taking, driving, keeping, detaining, impounding, and marking the same, shall be paid to the overseer or overseers of the poor of the parish, hamlet, or place where such sheep or lambs, sheep or lamb, shall have been so detained or impounded; and in case the owner or owners of such sheep or lambs, sheep or lamb, shall not claim such money within twelve calendar months after such payment, the same shall be applied in aid of the poor-rate of such parish, hamlet, township, or place."

Sheep not de-
manded in five
days after mark-
ed may be sold.

Sect. 7. "All penalties and forfeitures by this act imposed for any offence against the same, shall be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal of some justice of the peace for the county or place where the offence shall be committed, rendering the overplus of the money arising by such distress and sale (if any), upon demand, to the owner of such goods and chattels, after deducting the costs and charges of making such distress and sale; which warrant such justice is hereby empowered and required to grant, upon conviction of the offender or offenders, by confession or upon the oath of one or more credible witness or witnesses; and one moiety of such penalties and forfeitures, when so levied, shall be paid to the informer, and the other moiety to the overseer or overseers of the parish or township where the offence shall be committed, to be applied by him or them in aid of the poor-rate."

Penalties, how to
be recovered and
applied.

Sect. 8. "That in all cases where any conviction shall be had for any offence or offences committed against this act, or against any order of sessions, or any adjudication for the marking of sheep or lambs made, the form of conviction, and the form of adjudication for the marking of any sheep or lambs, shall be in the words or to the effect following; that is to say,

Form of convic-
tion and adjudi-
cation.

" ——— } Be it remembered, that on this day of , in the
to wit. { year of the reign of , A. B. is convicted before
of his majesty's justices of the peace for the of , by virtue of an
act of parliament, made in the thirty-eighth year of the reign of King George

38 Geo. 3, c. 65. *the Third, intituled* [here set forth the title of the act (a), and specify the offence, and the time and place when and where the same was committed]: *and I* [or, *we*], *the said* , *do adjudge him* [her, or *them*] *to forfeit and pay for the same the sum of* . *Given under my hand and seal* [or, *our hands and seals*], *the day and year aforesaid.*"

The Form of Adjudication.

" ——— } *Upon the report upon the oath* [or, *oaths*] *of* , *this* day
to wit. } *of* , *in the year of our Lord* , *made unto* of his
majesty's justices of the peace for the of , *respecting certain sheep*
[and lambs] *detained* [or, *impounded*] *in a* , *in the parish of* , *in*
the said county, by virtue of a warrant under our hands and seals [or, *my hand*
and seal], *do hereby adjudge that such sheep* [and lambs] *belonging to*
A. B. [or, *the owner or owners thereof being unknown*], *appearing to me* [or,
us] *to be infected with the scab or mange* [or, *having within the space of*
months immediately previous to the date hereof, been infected with the scab or
mange], *be marked forthwith according to the directions of an act, made in the*
thirty-eighth year of the reign of King George the Third, intituled [here set forth
the title of the act]. *Given under our hands and seals* [or, *my hand and seal*],
the day and year aforesaid."

Appeal.

Sect. 9. "If any person or persons shall think himself, herself, or themselves, aggrieved by any thing done by or in pursuance of this act, such person or persons may appeal to the justices of the general quarter-sessions of the peace to be holden for the county or place where such matter of appeal shall arise, next after the expiration of four calendar months from the time such matter of appeal shall have arisen, and the justices in such sessions are hereby authorized and required to hear and determine the matter of such appeal in a summary way, and to make such determination therein, and to award such costs as they shall judge proper; and such determination shall be final, binding, and conclusive to all parties, and to all intents and purposes whatsoever."

Distress not
deemed unlawful
for want of form;
nor proceeding to
be removed by
certiorari.

Sect. 10. "Where any distress shall be made for any sum or sums of money to be levied by virtue of this act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the party or parties making the same be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall afterwards be done by the party or parties distraining; and the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case: provided always, that no plaintiff or plaintiffs shall recover in any such action for such irregularity, or for any trespass or other wrongful proceeding, if tender of sufficient amends hath been made to him, her, or them, or his, her, or their attorney, or by or on the behalf of the defendant or defendants, before such action brought; and in case no such tender shall have been made, it shall be lawful for the defendant or defendants in any such action, by leave of the court, after such action shall have been brought, at any time before issue joined, to pay into court such sum of money as he, she, or they, shall think fit, whereupon such proceedings, order, and judgment, shall be made and given in and by such court, as in other actions where the defendant is allowed to pay money into court."

(a) "An Act for preventing the Depasturing of Forests, Commons, and Open Fields, with Sheep or Lambs infected with the Scab or Mange, in that part of Great Britain called England."

Sheriff (a).

[13 Edw. I., st. 1, c. 39; 9 Edw. II. st. 2; 4 Edw. III. c. 9; 5 Edw. III. c. 14; 14 Edw. III. st. 1, c. 7; 14 Edw. III. c. 15; 28 Edw. III. c. 7; 1 Rich. II. c. 11; 4 Hen. IV. c. 5; 1 Hen. V. c. 4; 23 Hen. VI. c. 8, c. 10; 17 Edw. IV. c. 6; 19 Hen. VII. c. 10; 27 Eliz. c. 12; 1 Mary, sess. 2, c. 8; 13 & 14 Car. II. c. 21; 3 Geo. I. c. 15; 9 Geo. I. c. 9; 20 Geo. II. c. 9; 20 Geo. II. c. 37; 42 Geo. III. c. 90; 6 Geo. IV. c. 50; 3 & 4 Wil. IV. c. 99; 5 & 6 Wil. IV. c. 28.]

SHERIFF (*shireve*) in Saxon is *scirgerefa*, from *sciran*, to *share* or *divide*, for that the whole realm is parted and divided into *shires*; and *gerefa*, the *comes*, earl or governor, in the Belgic, called *græf* or *grave*. The word *comes* or *count* came first into Europe out of the eastern countries, and the word *county*, in Latin *comitatus*, seemeth to be nothing else but the division or allotment over which the *comes* or *count* had jurisdiction. And when the counts or earls left the custody of the counties, then was the custody thereof committed to the *viscounts*, or *vicecomes* (which is the Latin name for sheriffs); so called, because they supply the place of the *comes* or earl. The *earl* was otherwise called by the Saxons, *eorl*, *ealdor*, *ealdorman* (elder or alderman), because they were usually men of age and experience; by a like derivation as that of *senators* among the Romans.

By four several statutes it is enacted that none shall be sheriff, except he have sufficient land within the shire to answer the king and his people, viz. 9 Edw. II. st. 2; 4 Edw. III. c. 9; 5 Edw. III. c. 4; 13 & 14 Car. II. c. 21. (See *Watson's Sheriff*, 4.)

In general, no man can be exempt from the office of sheriff but by act of parliament, or letters patent. (*Earl of Shrewsbury's Case*, 9 Rep. 46.)

By the Militia Act, 42 Geo. III. c. 90, s. 172, no person, being an officer of the *militia*, shall be compelled to serve the office of sheriff.

In the case of the mayor of *Norwich v. Berry*, 4 Burr. 2109, it was adjudged that an attorney is exempted from the office of sheriff of a corporation, by reason of his attendance on the courts at Westminster; and, though Lord *Mansfield*, C. J., distinguished this office in a corporation from that of the sheriff of a county, he seemed to think the privilege extended equally to the latter.

The payment of the fine fixed by the 9 Geo. I. c. 9, s. 3, to be discharged from serving the office of sheriff of *Norwich*, does not exempt the person paying it for more than one year, unless the corporation agree that he shall be discharged for a longer time. (*R. v. Woodrow*, 2 T. R. 731; see, also, *R. v. Bower*, 1 B. & C. 585; 2 D. & R. 842, S. C.)

At the common law the sheriff was chosen by the county; but, by the 14 Edw. III. st. 1, c. 7, he shall be appointed yearly on the morrow of All Souls (since altered to the morrow of St. Martin), at the Exchequer, by the chancellor, treasurer, and chief baron, taking to them the chief justices.

Except in London, and where the office is a man's freehold or inheritance. 23 Hen. VI. c. 8.

By the 3 Geo. I. c. 15, s. 18, the sheriff (except in Wales and Chester(b)), at the entering upon his office, shall take the following oath (to be administered in pursuance of a writ of *dedimus potestatem*):—

"I, A. B., do swear, that I will well and truly serve the king's majesty in the office of sheriff of the county of _____, and promote his majesty's profit in

(a) The office and duties of a sheriff being but in a slight degree connected with the objects of this work, it has been thought fit not to enlarge much on the subject in this edition. (See *Watson on Sheriffs*; *Dalton's Sheriff*; *Impey's*

Sheriff; *Tidd's Practice*, 9 ed., index, *Sheriff*; *Archbold's Practice*, by T. Chitty.)

(b) The Welsh judicature, &c., is abolished by the 1 Wil. IV. c. 70. See post, "*Wales*."

Sheriff, what.

Qualification.

Who exempted.

How chosen.

Sheriff's oath of office.

Sheriff.

all things that belong to my office, as far as I legally can or may; I will truly preserve the king's rights, and all that belongeth to the crown; I will not assent to decrease, lessen, or conceal the king's rights, or the rights of his franchises; and, whensoever I shall have knowledge that the rights of the crown are concealed or withdrawn, be it in lands, rents, franchises, suits, or services, or in any other matter or thing, I will do my utmost to make them be restored to the crown again; and if I may not do it myself, I will certify and inform the king thereof, or some of his judges. I will not respite or delay to levy the king's debts for any gift, promise, reward, or favour, where I may raise the same without great grievance to the debtors; I will do right, as well to poor as to rich, in all things belonging to my office; I will do no wrong to any man for any gift, reward, or promise, nor for favour or hatred; I will disturb no man's right, and will truly and faithfully acquit at the Exchequer all those of whom I shall receive any debts or duties belonging to the crown; I will take nothing whereby the king may lose, or whereby his right may be disturbed, injured, or delayed; I will truly return and truly serve all the king's writs, according to the best of my skill and knowledge; I will take no bailiffs into my service but such as I will answer for, and will cause each of them to take such oaths as I do, in what belongeth to their business and occupation; I will truly set and return reasonable and due issues of them that be within my bailiwick, according to their estate and circumstances, and make due panels of persons able and sufficient, and not suspected or procured, as is appointed by the statutes of this realm; I have not sold or let to farm, nor contracted for, nor have I granted or promised for reward or benefit, nor will I sell or let to farm, nor contract for, or grant for reward or benefit, by myself or any other person for me, or for my use, directly or indirectly, my sheriffwick, or any bailiwick thereof, or any office belonging thereunto, or the profits of the same, to any person or persons whatsoever; I will truly and diligently execute the good laws and statutes of this realm; and, in all things, well and truly behave myself in my office, for the honour of the king and the good of his subjects, and discharge the same according to the best of my skill and power. So help me God."

5 & 6 Wil. 4, c. 28.

9 Geo. 4, c. 17.

By the 5 & 6 Wil. IV. c. 28, "An Act for removing Doubts as to the Declaration to be made and Oaths to be taken by Persons appointed to the Office of Sheriff of any City or Town being a County of itself," [21st August 1835,] reciting, "Whereas by an act passed in the ninth year of the reign of his late majesty king George the Fourth, intituled 'An Act for repealing so much of several Acts as imposes the Necessity of receiving the Sacrament of the Lord's Supper as a Qualification to certain Offices and Employments,' it is enacted, that every person who should thereafter be placed, elected, or chosen in or to the office of mayor, alderman, recorder, bailiff, town clerk, or common councilman, or in or to any office of magistracy, or place, trust, or employment relating to the government of any city, corporation, borough, or cinque port within England and Wales, or the town of Berwick-upon-Tweed, should, within one calendar month next before or upon his admission into any of the aforesaid offices or trusts, make and subscribe the declaration therein mentioned; and it is thereby further enacted, that if any person placed, elected, or chosen into any of the aforesaid offices or places should omit or neglect to make and subscribe the said declaration in manner therein mentioned, such placing, election, or choice, should be void, and that it should not be lawful for such person to do any act in the execution of the office or place into which he should be so chosen, elected, or placed: and whereas doubts have been entertained whether the aforesaid provisions may be held to extend to persons elected or chosen to the office of sheriff of any city or town being a county of itself; and it is expedient that such doubts should be removed: it is enacted, that no person who has already been or who shall hereafter be elected or chosen to the office of sheriff of any city or town being a county of itself shall by reason thereof be liable to make or subscribe the aforesaid declaration within one calendar month next before or upon his admission to the said office: provided always, that every person so elected or chosen to the said office of sheriff shall take, make, and subscribe, within the time required by law, all oaths and declarations which sheriffs of counties are bound to take, make, and subscribe."

No person chosen a sheriff of a city or town shall thereby be liable to make the declaration in recited act.

Proviso.

The Court of King's Bench granted an information against a person refusing to take on him the office of sheriff, because the vacancy of the office occasioned a stop to public justice; and the year would be nearly expired before an indictment could be brought. (*R. v. Woodrow*, 2 T. R. 781.)

Sheriff.

Refusing to take office.

By the 3 & 4 Wil. IV. c. 99, s. 3, "whenever any person shall be duly pricked or nominated by his majesty for and to be sheriff of any county in England or Wales, except the county palatine of Lancaster, the same shall be forthwith notified in the London Gazette, and a warrant in the form set forth in the schedule to this act shall be forthwith made out and signed by the clerk of the privy council, and transmitted by him to the person so nominated and appointed sheriff as aforesaid; and the appointment of sheriff thereby made shall be as good, valid, and effectual in the law to all intents and purposes whatsoever as if the same had been made by patent under the great seal of Great Britain, or by any ways and means heretofore in use; and the sheriff or sheriffs so appointed as aforesaid shall thereupon, and upon taking the oath of office hereafter mentioned, have and exercise all powers, privileges, and authorities whatsoever usually exercised and enjoyed by sheriffs of counties in England and Wales, without any patent writ of assistance or other writ whatsoever, or entering into any recognizance by himself or sureties, and without payment of or being liable to pay any fees whatsoever for the same."

Appointment of sheriff.

Sect. 4. Provided "that a duplicate of the said warrant shall, within ten days next after the date of the same warrant, be transmitted by the said clerk of the privy council to the clerk of the peace of the county for which such person shall be nominated and appointed sheriff, to be by the said clerk of the peace enrolled, and which he is hereby required to enrol and keep without fee or reward."

Clerk of peace to enrol duplicate.

Sect. 5. "From and after the passing of this act every person so appointed sheriff as aforesaid shall, within one calendar month next after the notification of his appointment in the London Gazette, by writing under his hand, nominate and appoint some fit and proper person to be his under sheriff, and shall transmit a duplicate thereof to the clerk of the peace for the county, to be by him filed, and which he is hereby required to file, among the records of his office, and for which he shall be entitled to demand and have from such under sheriff the sum of five shillings, and no more; and such appointment and duplicate shall not be liable to any stamp duty whatever."

Sheriff to appoint an under sheriff, and transmit a duplicate thereof to the clerk of the peace for the county.

Sect. 6. "Each and every person so appointed sheriff and under sheriff as aforesaid, except the sheriffs of London and Middlesex and their under sheriffs, shall, before he enter upon the execution of his office, take the oath of office heretofore and now required by law, which oath shall be fairly written on parchment (without being subject to any stamp duty) and signed by him, and shall and may be sworn before the barons of his majesty's exchequer or any of them, or any one of his majesty's justices of the peace for the county of which he shall be appointed sheriff or under sheriff; and the same shall be thereupon transmitted to the clerk of the peace for the same county, who is hereby required to file the same among the records of his office, and for which he shall be entitled to demand and have from such sheriff or under sheriff the sum of five shillings, and no more."

Oaths of sheriff and under sheriff.

By the 4 Hen. IV. c. 5, the sheriff in person shall continue within his bailiwick, and shall not let it to farm.

Sheriff selling inferior offices.

And by the 3 Geo. I. c. 15, s. 10, none shall buy, sell, let, or take to farm the office of under sheriff, gaoler, bailiff, or other office, pertaining to the office of high sheriff, on pain of 500*l.*, half to the king and half to him that shall sue (in two years). See, further, "*Office*," Vol. III.

By the 1 Hen. V. c. 4, no under sheriff, sheriff's clerk, receiver, nor sheriff's bailiff, shall be attorney in the king's courts, during the time that he is in office with any sheriff.

Sheriff's officers not to be attorneys,

Sheriff.

or jurors.

Appointment of
the under sheriff.

By the 6 Geo. IV. c. 50, s. 2, sheriff's officers are exempt from serving on juries. See "*Jurors*," Vol. III. p. 497.

By the 3 Geo. I. c. 15, s. 11, the under sheriff shall be appointed by the high sheriff, because he shall answer for him; and, by sect. 19, he shall take the like oath as the high sheriff, *mutatis mutandis*.

The sheriff is answerable for the official acts of his under sheriff. (*Woodgate v. Knatchbull*, 2 T. R. 148; 1 Doug. 43, n., S. C.)

An under sheriff cannot refuse to execute process till he has his fees. (*Heskett's Case*, 1 Salk. 330.)

An inquisition, taken before two under sheriffs extraordinary, was set aside; for the high sheriff can appoint only *one* under sheriff extraordinary. (2 Wils. 378.)

Appointment of
bailiff.

The bailiffs also shall be appointed by him for the like reason; and every bailiff, when he gives security, upon entering into his office, shall make it part of the condition of such security that he will deliver a copy of the clauses in the 32 Geo. II. c. 28, concerning the carrying of prisoners for debt to alehouses (which is inserted more at large in Vol. II. title "*Gaols*," &c. Sect., XVIII.)

And by the 27 Eliz. c. 12, s. 2, such bailiff, or other person returning juries, or intermeddling with processes, shall take the following oath of office, before a judge of assize, or the *custos rotulorum*, or two justices of the peace (one of them being of the quorum):

Bailiff's oath.

"I, A. B., shall not use or exercise the office of bailiff corruptly during the time that I shall remain therein; neither shall nor will accept, receive, or take, by any colour, means, or device whatsoever, or consent to the taking of any manner of fee or reward of any person or persons, for the impannelling or returning of any inquest, jury, or tales, in any court of record, for the king, or betwixt party and party, above 2s., or the value thereof, or such fees as are allowed and appointed for the same by the laws and statutes of this realm; but will, according to my power, truly and indifferently, with convenient speed, impanel all jurors, and return all such writ or writs touching the same as shall appertain to be done by my duty or office, during the time that I shall remain in the said office.
So help me God."

Sect. 4, 6. Persons acting before they have taken the said oath shall forfeit 40*l.*; half to the king, and half to him that shall sue in the sessions, or other court of record.

Sect. 5. If they commit any act contrary to their said oath, they shall forfeit (in like manner) to the party grieved his treble damages.

And the sheriff's bailiffs shall not be in the same office in three years after, (1 Hen. V. c. 4,) except in London, Middlesex, Durham, Westmoreland, and towns being counties of themselves. (3 Geo. I. c. 15, s. 21.)

The sheriff and bailiff are not both answerable in an action for a penalty for the same act. (*Peshall v. Martin*, 2 T. R. 712.)

But, after verdicts in both actions, the court will stay proceedings in both, on paying one penalty, and the costs in one action. (*Peshall v. Martin*, 2 T. R. 712.)

Liability of she-
riff for bailiff's
acts.

It seems that an action may be maintained against the sheriff for the penalty given by the 29 Eliz. c. 4, for the acts of his bailiff. (*Woodgate v. Knatchbull*, 2 T. R. 155, *et seq.*)

But all actions for breach of duty of the office of sheriff must be brought against the *high-sheriff*, though in consequence of the default of the *under sheriff* or *bailiff*. (*Cameron v. Reynolds*, 1 Cowp. 403.)

As to the evidence in order to connect the sheriff with the bailiff, see *Ros. Ev.* 613, 4th ed.; and as to when the admissions of the under sheriff or bailiff may be evidence against the sheriff, see *Id.* 41, 614.

Extortion.

An indictment lies against a sheriff for extortion, if he himself be guilty of it. See "*Extortion*," Vol. II., p. 809.

Courts of sheriff.

The sheriff hath a jurisdiction both in criminal and civil cases; and for this purpose he hath two courts, his *tourn* for criminal causes, which is therefore the king's court; the other in his *county court* for civil causes, and

this is the court of the sheriff himself. (3 *Salk.* 322. See "*County Court*," Vol. I.; "*Tourn*," *post.*)

Sheriff.

A sheriff has no authority to order a freeholder into custody, and to take him before a magistrate, if he interrupt the proceedings at a county court, held for the election of knights of the shire, by making a noise and disturbance. (*Spilsbury v. Micklethwaite*, 1 *Taun.* 146.)

The new sheriff being appointed and sworn, he ought, at or before the next county court, to deliver a writ of discharge to the old sheriff, who is to set over all the prisoners in the gaol severally, by their names (together with all the writs), precisely, by view and indenture between the two sheriffs; wherein must be comprehended all the actions which the old sheriff hath against every prisoner, though the executions are of record. And, till the delivery of the prisoners to the new sheriff, they remain in the custody of the old sheriff, notwithstanding the letters patent of appointment, the writ of discharge, and the writ of delivery. Neither is the new sheriff obliged to receive the prisoners, but at the gaol only. But the office of the old sheriff ceases, when the writ of discharge cometh to him. (*Wood's Inst.* b. 1, c. 7.)

Accounts of his predecessor.

By the 20 Geo. II. c. 37, the old sheriff shall turn over to his successor, by indenture and schedule, all such writs and process as shall remain unexecuted; and the new sheriff shall execute and return the same.

Sheriff to turn over unexecuted process to successor.

When a sheriff quits his office, the custody of the county gaol can only belong to his successor. The county gaol is the prison for malefactors, and the sheriff ought to keep them there; but prisoners for debt, &c., where escape lies against the sheriff for their escape, may be kept in what place the sheriff pleases. (1 *Ld. Raym.* 136.)

Also prisoners.

By the 3 & 4 Wil. IV. c. 99, s. 7, "every sheriff of any county, city, liberty, division, town corporate, or place, shall at the expiration of his office make out and deliver to the new or incoming sheriff a true and correct list and account under his hand of all prisoners in his custody, and of all writs and other process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the said incoming sheriff the several matters intended to be transferred to him, and shall thereupon turn over and transfer to the care and custody of the said incoming sheriff all such prisoners, writs, and process, and all records, books, and matters appertaining to the said office of sheriff; and the said incoming sheriff shall thereupon sign and give a duplicate of such list and account to the sheriff going out of office, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned and transferred to the said incoming sheriff, and the further charge of the execution of the writs, process, and other matters therein contained, without any writ of discharge, or other writ whatsoever; and the said incoming sheriff shall thereupon stand and be charged with the said prisoners, and also with the execution and care of the said writs, process, and other matters, contained in the said list and account, as fully and effectually as if the same writs and process had been turned over by indenture and schedule; and in case any sheriff shall refuse or neglect at the expiration of his office to make out, sign, and deliver such list and account as aforesaid, and to turn over the process aforesaid in manner aforesaid, every such sheriff so neglecting or refusing shall be liable to make such satisfaction by damages and costs to the party aggrieved as he, she, or they shall sustain by such neglect or refusal.

Prisoners and writs to be turned over by sheriffs at the expiration of their office to the incoming sheriff.

The sheriff, having a justice of the peace's warrant directed to him, shall execute the same; but he need not go in person to execute it, but may authorize another to do it. (2 *Haw.* c. 13, s. 29.)

Sheriff, how far amenable to the justices of the peace.

And it is no excuse to the sheriff to return that he could not execute a precept because of resistance; for he may take with him the power of the county. (13 *Ed. I.* st. 1, c. 39.)

Also, the sheriff, on summons, is bound to attend the sessions of the peace, there to return his precepts, to take the charge of the prisoners, to receive fines for the king, and the like. (2 *Haw.* c. 8, s. 45.)

Sheriff.

Taking recognizances.

And it seems clear, from the general reason of the law, which gives all courts of record a kind of discretionary power over all abuses by their own officers, that the sheriff is punishable by the justices in sessions for defaults in executing their writs and precepts. (2 *Haw. c. 22, s. 2.*)

In the case of *Bengough and another v. Rossiter*, 4 *T. R.* 505, it was determined that a sheriff has no authority to take a *bond* for the appearance of persons arrested by him, under process issuing upon an indictment at the quarter sessions for a misdemeanor; he can only take a *recognizance* for their appearance.

Sheriff a conservator of the peace, but not to act as justice.

Every sheriff is a principal conservator of the peace, by the common law, and may, *ex officio*, award process of the peace, and take surety for it: and it seems to be the better opinion, that the security so taken by him is, by the common law, looked on as a *recognizance*, or matter of record, and not as a common obligation. (2 *Haw. c. 8, s. 4.*)

But by 1 *Mar. Sess. 2, c. 8*, no sheriff shall exercise the office of a justice of the peace in any county wherein he is sheriff; and, in such case, his acts as a justice shall be void.

Sheriff to have the keeping of gaols.

By the 14 *Edw. III. st. 1, c. 10*, and 19 *Hen. VII. c. 10*, the sheriff shall have the keeping of gaols: and, at the expiration of his office, the custody of the county gaol is vested in his successor, *ante*, 643. See his duties and liabilities as gaoler, title "*Gaol*," Vol. II.; 4 *Geo. IV. c. 84, s. 6.*

And in all *civil* causes, as in cases of imprisonment for debt, the sheriff or gaoler (at the election of the party) shall be answerable for escapes suffered by the gaoler; but if the gaoler suffer a *felon* voluntarily to escape, this, inasmuch as it reacheth to life, is felony only in the gaoler; but the sheriff may be indicted, fined, and imprisoned. (1 *Hale*, 597.)

Sheriff answerable for money levied by him.

Where the sheriff levies money on a *fiery facias*, the plaintiff may have an action of debt against him for the money, because it was received by him to the plaintiff's use, and the defendant is discharged of it; and it lies against his executors, if he die. (3 *Salk.* 323.)

Passing his accounts.

The manner of passing his accounts is directed at large by the 3 & 4 *Wil. IV. c. 99*; which, being foreign to our purpose, is not here inserted. The 10th section of that act enacts, that the oath or affidavit of the sheriff as to his accounts, may be sworn before a justice of the peace. As to the passing of his accounts when sheriff of Chester or Wales, see 1 *Wil. IV. c. 70, s. 33.*

How long he shall continue in office.

By the 14 *Edw. III. st. 1, c. 7*, and the 28 *Edw. III. c. 7*, no sheriff shall continue in his office above one year, except in London, Middlesex, and towns being counties of themselves, and where the office is a man's freehold or inheritance. See the 23 *Hen. VI. c. 8*; 3 *Geo. I. c. 15, s. 21.*

And by the 1 *Rich. II. c. 11*, none that hath been sheriff shall be so again within three years, if there be other sufficient.

But by the 17 *Edw. IV. c. 6*, the sheriff may hold his office after the year, during Michaelmas and Hilary terms, if not before lawfully discharged.

Sheriff dying before the expiration of his office.

By the 3 *Geo. I. c. 15, s. 8*, if the sheriff shall die before his office shall be expired, the under sheriff shall execute the same in the deceased sheriff's name, till a new sheriff be sworn, and be answerable for the execution thereof, as the deceased sheriff would have been.

At assizes.

The sheriff's duty, before and at the assizes, consists in, 1st, proclaiming assize; 2ndly, summoning the different juries: viz. the grand jury, nisi prius jury, crown jury, and also the special juries, if any, and granting views; see "*Jurors*," Vol. III.; 3dly, making his return to the assize precepts; 4thly, making and delivering a list of the prisoners to the judges, attending the judges, and providing them lodgings, &c.

The sheriff makes the required proclamation, by inserting an advertisement in the county newspapers. In some counties this is done by placarding printed proclamations in the principal towns and villages throughout the county. (*Watson's Sheriff*, 276.)

The sheriff, as well as his under-sheriff, must be in constant attendance on the judges during the whole of the assizes, and should provide the judges with lodgings, according to the custom of the particular county.

The sheriff should also go in state to meet the judges at the accustomed place, before they enter the town.

These, and other ceremonies, vary in different counties, and the under sheriff may readily inform himself of what attention he should pay the judges.

The under sheriff has a great many payments to make, to the criers, to the attendants of the judges, to his javelin men, &c. &c.; these are also regulated by custom.

For payments for the judges' lodgings, and other payments, as rewards, &c., he should take receipts, and these will be allowed him in his accounts. See "*Assizes*," Vol. I.; *post*, "*Shire-Hall*."

In case of any person being condemned to death, and left for execution, the undersheriff should attend, and also collect his constables, bailiffs, and all the disposable civil force he can command, to attend the execution. (See *Watson's Sheriff*, 278; title "*Execution*," Vol. II.)

Execution of a criminal.

The sheriff's duty, before and at sessions, chiefly consists in proclaiming the sessions, in returning the grand jury, and giving notice to all stewards, constables, bailiffs of hundreds and liberties, and other officers.

Sheriff's duty at sessions.

He is bound to provide and make ready a fit and decent place for holding the sessions, unless where this duty is otherwise repealed by statute. (*Dalt. J.* 372.)

He should attend the sessions by himself or his deputy, on summons, to return his precepts, receive fines for the king, and take charge of prisoners; and if he neglect to do so, he may be fined by the court. (*Dick. Sess.* 50.)

The under sheriff, at the sessions, receives all fines paid there.

He is also to pay the justices of the peace their wages, viz. 4s. *per diem*, and 2s. to the clerk of the peace, which will be allowed the sheriff in his accounts. (*Watson*, 280.)

The sheriff must execute the writs and precepts of justices in session, and he is responsible to the court of which he is an officer, though he may execute any process by deputy. (2 *Haw. c.* 22.)

SCHEDULE to which the 3 & 4 WIL. IV. c. 99 refers.

At the court at _____, the _____ day of _____, present the king's most excellent majesty in council.

To A. B. of, &c.

Whereas his majesty was this day pleased, by and with the advice of his privy council, to nominate and appoint you for and to be sheriff of the county of _____ during his majesty's pleasure: these are therefore to require you to take the custody and charge of the said county, and duly to perform the duties of sheriff thereof during his majesty's pleasure; and whereof you are duly to answer according to law.

Dated this _____ day of _____

By his Majesty's command,
C. D.

Ships.

As to Seamen in general, see "*Seamen*," *ante*.

As to Stealing from Ships, see "*Larceny*," Vol. III. p. 679.

As to Plundering Wrecks, &c., see "*Wreck*," *post*.

As to Assaults relative to Ships, &c., see "*Assault*," Vol. I. p. 293.

As to Going Abroad, see "*Foreign Service*," Vol. II.

As to *Piracy*, see "*Piracy*," ante.

As to *Trial of Offences at Sea*, see "*Admiralty*," Vol. I.

As to regulations of Shipping, &c., on the River *Thames*, see "*Thames*," post.

Herein—

I. *Setting Fire to, or Destroying Ships*, p. 646.

[7 & 8 Geo. IV. c. 30, s. 9.]

II. *Damaging Ships otherwise than by Fire*, p. 648.

[7 & 8 Geo. IV. c. 30, s. 10.]

III. *Offences tending to the Loss of Vessels, &c., exhibiting False Lights, &c.*, p. 649.

[2 Geo. III. c. 28; 1 & 2 Geo. IV. c. 75, s. 11; 7 & 8 Geo. IV. c. 30, s. 11.]

IV. *Burning or Destroying, &c. King's Ships and Magazines, &c.*, p. 651.

[12 Geo. III. c. 24, ss. 1, 2.]

V. *Preventing Seamen Working, &c.*, p. 652. See "*Seamen*."

VI. *The Registry Act, and herein of Masters detaining Certificate of Registry, &c.*, p. 652.

[3 & 4 Wil. IV. c. 55; 5 & 6 Wil. IV. c. 56.]

VII. *Regulations, &c. as to Passengers*, p. 672.

[4 Geo. IV. c. 88; 6 Geo. IV. c. 105, 116; 4 & 5 Wil. 4, c. 89, s. 28; 6 Wil. IV. c. 1.]

VIII. *The Pilot Act, and Regulations, &c. as to Pilots*, p. 676.

[6 Geo. IV. c. 125.]

IX. *The Navigation Act*, 704.

[3 & 4 Wil. IV. c. 54.]

X. *Cordage for Shipping*, 707.

[25 Geo. III. c. 56.]

XI. *Stores, Naval and Military*. See post, "*Stores*."

I. *Setting Fire to, or Destroying Ships.*

Setting fire to or
destroying a ship.

BY the 7 & 8 Geo. IV. c. 30, s. 9, "if any person shall unlawfully and maliciously set fire to, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that hath underwritten, or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon."

Death.

This is nearly a re-enactment of the second section of the 43 Geo. III. c. 113, as to destroying ships. See the general clauses affecting all the provisions of this act, "*Malicious Injuries to Property*," Vol. III. The sentence of death may be recorded, 4 Geo. IV. c. 28.

Repeal.

The 7 & 8 Geo. IV. c. 27, repeals so much of the 22 & 23 Car. II. c. 11, as relates to the wilful destruction of any ship by any of the persons belonging to it, as therein mentioned; and of so much of the 33 Geo. III. s. 67, as relates to persons who shall wilfully and maliciously set fire to, or destroy or damage otherwise than by fire, any ship, keel, or other vessel. The 9 Geo. IV. c. 31, repeals the 43 Geo. III. c. 113.

In *R. v. Onesiphorus Bowyer and Charles Harper, Gloucester Spring Assizes, 1831, 4 C. & P. 559*, the defendants were indicted on the 7 & 8 Geo. IV. c. 30, s. 10, *post*, 648, for damaging a wherry boat. It was objected, that the statute did not apply to such a boat, that it was meant to provide a remedy for a greater mischief, viz., the injuring a merchant or other ship. *Patteson, J.*, said it was important, with a view to other cases, to ascertain whether the words "ship" or "vessel" applied to a boat of this description, and therefore he would, in the event of a conviction, save the point for the opinion of the judges. The jury, however, found the defendants not guilty. It is submitted that the objection raised was a tenable one.

Upon an indictment for firing a barge, *Alderson, J.*, said, that, if the prisoner was convicted, he would take the opinion of the judges as to whether a barge was within the meaning of the statute: the prisoner was acquitted. (*R. v. Smith, 4 C. & P. 569.*)

The ownership of the vessel must be proved as described in the indictment. Where, upon an indictment against the defendant, for setting fire to a ship with intent to prejudice E. and G. his part-owners, it appeared that the defendant had declared that E. and G. were part-owners, and a bill of sale was produced, by which forty-three sixty-fourths of the vessel were transferred by the defendant, the sole owner, to E. and G.: and also an entry in the books of registry, in the following form—"Custom House, Padstow, 11th August, 1829, W. P., of &c., has sold by bill of sale, dated &c., forty-three sixty-fourth shares, to N. G., of &c., and R. E., of &c. Signed," &c.—and it was objected that the bill of sale was not valid, because, by statute 6 Geo. IV. c. 110, s. 37, the entry must contain not only the date of the bill of sale, but also the date of the production of it; the judge thought that the date, 11th August, in the commencement of the entry, might be considered as the date of the production of it, particularly as the entry followed the form given by the statute; and it was holden, that the defendant was properly convicted. (*R. v. Philp, R. & M. C. C. 263.*) It would seem, that acts of ownership would alone be sufficient to prove this allegation, liable, however, to be rebutted by the entry in the register. (*Jervis, Arch. C. L. 6 ed. 289.*)

If the ship had only run aground, and were afterwards got off in a condition so as to be easily refitted, it seems it would not be an offence within the act. (See *R. v. De Londo, 2 East, P. C. 1098.*)

The offence in an indictment for destroying a ship with intent, &c., must be proved to have been committed with the intent charged in the indictment. Proving that it was done wilfully is of itself sufficient evidence from which the jury may presume that it was committed with intent to prejudice either the owner or part-owner of the ship, or of the goods; but if the intent charged be to prejudice the underwriters, you must prove the policy. (See *R. v. Gilson, R. & R. 138.*)

Commencement as usual, as *ante*, p. 175, (No. 1.) on the _____ day of _____, (1.) Commitment
A. D. _____, at the parish of _____, in the said county, a certain ship and ves- for setting fire to
sel called the _____, whereof A. B. was the owner, unlawfully, maliciously, and or destroying a
feloniously, did set fire to and destroy [or, destroy] with intent thereby there ship.
to prejudice the said A. B.; against the form of the statute in that case made
and provided. And you, the said keeper, &c. [as usual, to the end].

Admiralty of England (a): The jurors for our lord the king upon their oath (2.) Indictment
present, that C. D., late of the parish of _____, in the county of _____, labourer, on for a like offence.
the _____ day of _____, in the _____ year of the reign of our sovereign lord the now
king William the Fourth, with force and arms, a certain ship and vessel called
the _____, upon the high seas then being, and whereof one A. B. was then and

(a) If the offence be committed in the body of a county, state the venue as in other cases.

1. Setting Fire to, &c.

What a ship within the act.

Ownership.

What a destruction, &c. of ship.

2. Damaging Ships not by Fire.

there the owner, and within the jurisdiction of the Admiralty of England, unlawfully, maliciously, and feloniously, did set fire to and destroy [or, destroy]; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.]

(3.) Commitment for setting fire to or destroying a ship, to prejudice the owner or underwriters, on like stat.

Commencement as usual, ante, p. 175, (No. 1.) on the day of , A.D. , at the parish of , in the said county, a certain ship and vessel called the , whereof one A. B. was then and there the owner, upon the high sea then being, unlawfully, maliciously, and feloniously, did set fire to [or, "cast away," or "destroy," according to the fact], with intent thereby then and there to prejudice the said A. B. [or, "one E. F., the owner of certain goods and chattels then and there being on board of the said ship and vessel,"] [or, "G. H. and I. K., who had before then severally underwritten a certain policy of insurance on the said ship and vessel," or, "on the freight of the said ship and vessel," or, "on certain goods and chattels then and there being on board of the said ship and vessel"]; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end].

(4.) Indictment for a like offence.

Admiralty of England: The jurors for our lord the king upon their oath present, that C. D., late of the parish of , in the county of , mariner, on the day of , in the year of the reign of our sovereign lord the now king William the Fourth, with force and arms, on board a certain ship called the Hebe, the property of E. F., on a certain voyage upon the high seas then being, then and there upon the high seas and within the jurisdiction of the admiralty of England, feloniously, unlawfully, and maliciously, did set fire to the said ship, with intent thereby then and there to prejudice the said E. F., the owner [or, "part-owner"] of the said ship; [or, "one E. F., the owner of certain goods, then and there laden and being on board the said ship;" or, "one E. F., who had before then underwritten a certain policy of insurance on the said ship;" or, "on the freight of the said ship;" or, "on certain goods then being on board the said ship,"] which said policy was then in full force and operation; against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown and dignity. [If the offence be committed within the body of a county, state the venue as in the Form, supra.]

II. Damaging Ships not by Fire.

Damaging ships.

By stat. 7 & 8 Geo. IV. c. 30, s. 10, "if any person shall unlawfully and maliciously damage, otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years; and, if a male, to be once, twice, or thrice, publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment."

See the general clauses affecting this and all the provisions of this act, "**Malicious Injuries to Property**," Vol. III.

Repeal.

The 7 & 8 Geo. IV. c. 27, repeals so much of the 22 & 23 Car. II. c. 11, as relates to the wilful destruction of any ship by any of the persons belonging to it, as therein mentioned; and the fifth and sixth sections of the 33 Geo. III. c. 67.

As to what vessels are within the enactment, and the proof of ownership see ante, 647.

(1.) Commitment for damaging a ship, otherwise

Commencement as usual, as ante, p. 175, (No. 1.) on the day of , A. D. , at the parish of , in the said county, a certain ship and vessel called the , upon the high seas then being, one A. B., then and there

being the owner thereof, unlawfully, maliciously, and feloniously, did damage 3. Offences otherwise than by fire, with intent then and there feloniously to destroy the said ship and vessel, and to render the same useless; against the form of the statute *Loss of Ships*, in that case made and provided. And you, the said keeper, &c. [as usual, to the end].

than by fire, with intent to destroy it, &c.

(2.) Indictment for a like offence.

Admiralty of England: The jurors for our lord the king upon their oath present, that C. D., late of the parish of , in the county of , labourer, on the day of , in the year of the reign of our lord the now king William the Fourth, with force and arms, a certain ship and vessel called the , upon the high sea then being, one A. B., being then and there the owner thereof, then and there upon the high sea, and within the jurisdiction of the Admiralty of England, unlawfully, maliciously, and feloniously, did damage the said ship and vessel otherwise than by fire, with intent then and there feloniously to destroy the said ship and vessel, [or, "to render the said ship and vessel useless"]; against the form of the statute in that case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts as the case may suggest.]

III. Offences tending to the Loss of Ships, Exhibiting False Signals, &c.

By stat. 7 & 8 Geo. IV. c. 30, s. 11, "if any person shall exhibit any false light or signal, with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, or destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, or shall, by force, prevent or impede any person endeavouring to save his life from such ship or vessel (whether he shall be on board or shall have quitted the same), every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon." This sentence may be recorded, 4 Geo. IV. c. 48.

Exhibiting false signals to a ship, &c.; destroying a shipwrecked vessel or cargo, &c.

See the general clauses affecting this and all the provisions of this act, "*Malicious Injuries to Property*," Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals so much of the 13 Anne, c. 21, *vulgo* Repeal. 12 Anne, st. 2, c. 18, "as relates to any person upon whom any goods stolen or carried off from any vessel in distress shall be found, and to the several offences touching vessels in distress, which are thereby made capital felonies;" and also the 1st, 2d, 3d, 4th, and 8th sections of the 26 Geo. II. c. 19.

As to assaults on persons endeavouring to save wrecked goods, see "*Assault*," Vol. I. p. 282; "*Wreck*," *post*.

By the 1 & 2 Geo. IV. c. 75, s. 11, "if any person or persons shall wilfully cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall do or commit any act with intent and design to cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal, any buoy, buoy-rope, or mark belonging to any ship or vessel, or which may be attached to any anchor or cable, belonging to any ship or vessel whatever, whether in distress or otherwise, such person or persons so offending shall, on being convicted of such offence, be deemed and adjudged to be guilty of felony, and shall be liable to be transported for any term not exceeding seven years, or in mitigation of such punishment to be imprisoned for any number of years, at the discretion of the court in which the conviction shall be made."

Cutting away buoys, ropes, &c., belonging to ships, whether in distress or otherwise.

Transportation or imprisonment.

Sect. 12. "That if any person shall knowingly and wilfully, and with intent to defraud and injure the true owner or owners thereof, or any person interested therein as aforesaid, purchase or receive any anchors, cables, or goods, or merchandize which may have been taken up, weighed, swept for, or taken possession of, whether the same shall have belonged to any ship or

Receiving anchors, &c., weighed up.

3. *Offences tending to the Loss of Ships, &c.*

Carrying anchors abroad.

Persons convicted of cutting or spoiling any cordage, cable, or buoys of vessels at anchor in the river, with intent to steal the same, shall be transported for seven years.

(1.) Indictment for exhibiting false signals.

(2.) Commitment for doing an act tending to the loss of a ship in distress.

(3.) Commitment for destroying part of a ship in distress, &c., or goods belonging to it.

(4.) Indictment for a like offence.

vessel in distress or otherwise, or whether the same shall have been preserved from any wreck, if the directions hereinbefore contained with regard to such articles shall not have been previously complied with, such person or persons shall, on conviction thereof, be deemed guilty of receiving stolen goods, knowing the same to be stolen, as if the same had been stolen on shore, and suffer the like punishment as for a misdemeanor at the common law, or be liable to be transported for seven years, at the discretion of the court before which he, she, or they shall be tried."

By sect. 15, persons carrying anchors and cables abroad, may be transported.

The 1 & 2 Geo. IV. c. 76, enacts similar provisions for the Cinque Ports.

By the 2 Geo. III. c. 28, s. 13, "if any person or persons shall cut, damage, or spoil, any cordage, cable, buoys, buoy-rope, head-fast, or other fast, fixed to any anchor or moorings belonging to any ship or vessel at anchor or moorings in the river Thames, or any rope used for the purpose of mooring or rafting masts or timber, or shall be aiding or assisting therein, with an intent to steal the same; such person or persons shall, being convicted thereof on the oath of two or more credible witnesses, be transported to some of his majesty's plantations in America for the space of seven years, according to the laws now in force for the transportation of felons."

—(venue.) *The jurors for our lord the king upon their oath present, that, before and at the time of committing the felony hereinafter mentioned, a certain ship [or, "vessel,"] the property of some person or persons to the jurors aforesaid unknown, was sailing on the high seas, [or, "in a certain river called the _____,"] near unto the parish of _____, in the county aforesaid, and that C. D., late of the parish aforesaid, in the county aforesaid, labourer, on the _____ day of _____, in the _____ year of the reign of our sovereign lord the now king William the Fourth, at the parish aforesaid, in the county aforesaid, well knowing the premises, whilst the said ship was so sailing near unto the said parish as aforesaid, feloniously did exhibit a false light, [or, "false signal,"] with intent thereby then and there to bring the said ship into danger; against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown and dignity.*

Commencement as usual, as ante, p. 175, (No. 1.) on the _____ day of _____, A. D. _____, at the parish of _____, in the said county, whilst a certain ship and vessel was on the high seas, and whilst the said ship and vessel was in distress, unlawfully, maliciously, and feloniously did [state the nature of the offence], the said [offence of the prisoner, stating it], as aforesaid, then and there tending to the immediate loss and destruction of the said ship and vessel; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end].

Commencement as usual, as ante, p. 175, (No. 1.) on the _____ day of _____, A. D. _____, at the parish of _____, in the said county, a part, to wit, the bows of a certain ship and vessel then and there wrecked [any part of any ship or vessel, which shall be in distress or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel], one A. B., then and there being the owner thereof, unlawfully, maliciously, and feloniously did destroy; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end].

— [venue]. *The jurors for our lord the king upon their oath present, that, before and at the time of committing the felony hereinafter next mentioned, to wit, on the _____ day of _____, in the _____ year of the reign of our lord the now king William the Fourth, at the parish of _____, in the county aforesaid, a certain ship and vessel, called the _____, the property of some per-*

son or persons to the jurors aforesaid unknown [or, one *A. B.* being then and there the owner thereof], was stranded and cast on shore ["in distress, or wrecked, stranded, or cast on shore"]; and that *A. B.*, late of the parish aforesaid, in the county aforesaid, labourer, then and there, with force and arms, a certain part, to wit, the hulks of the said ship, so stranded and cast ashore as aforesaid, whilst the same was so stranded and cast on shore ["any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind, belonging to such ship or vessel"], unlawfully, maliciously, and feloniously did destroy; against the form of the statute in that case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts, as the case may suggest.]

4. Burning or Destroying King's Ships, &c.

Commencement as usual, as ante, p. 175, (No. 1.) on the day of , (5.) Commitment *A. D.* , at the parish of , in the said county, feloniously and by force, did prevent and impede a certain person unknown [or, one *A. B.*], whilst the said person [or, "the said *A. B.*"], was then and there endeavouring to save his life from a certain ship and vessel, which was then and there in distress, wrecked, stranded, and cast on shore; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end].

(5.) Commitment for impeding a person saving his life from a shipwreck.

(venue.) The jurors for our lord the king upon their oath present, that, before and at the time of committing the felony hereinafter mentioned, to wit, on the day of , in the year of the reign of our lord the now king William the Fourth, at the parish of , in the county of , a certain ship and vessel called the *Dart*, the property of some person or persons to the jurors aforesaid unknown [or, of one *A. B.*], was in distress, wrecked, stranded, and cast ashore; and that *C. D.*, late of the parish aforesaid, in the county of , labourer, then and there, with force and arms, feloniously and by force, did impede and prevent a certain person, to the jurors aforesaid unknown [or, "one *E. F.*"], whilst the said person [or, the said *E. F.*] was then and there endeavouring to save his life from the said ship and vessel so in distress, wrecked, stranded, and cast ashore, as aforesaid; against the form of the statute in that case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts, as the case may suggest.]

(6.) Indictment for a like offence.

Commencement as usual, as ante, p. 175, (No. 1.) on the day of , (7.) Commitment *A. D.* , at the parish of , in the said county, wilfully and feloniously did cut away and injure [cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal] a certain buoy [any buoy, buoy-rope, or mark], the property of *A. B.*, belonging to a certain ship or vessel called the *Hebe*, [or, "which was then and there attached to an anchor [or, 'cable'] belonging to a certain ship and vessel called the *Hebe*;" contrary to the form of the statute in such case made and provided. And you, the said keeper, &c. [as usual, to the end].

(7.) Commitment for injuring, &c., buoys, &c. of ships.

Admiralty of England: The jurors for our lord the king upon their oath present, that *C. D.*, late of the parish of , in the county of , labourer, on the day of , in the year of the reign of our sovereign lord the now king William the Fourth, with force and arms, upon the high seas, within the jurisdiction of the Admiralty of England, did then and there feloniously and wilfully cut away a certain buoy ["buoy-rope, or mark,"] belonging to a certain ship called the *Hebe*, the property of *E. F.*, and then and there attached to a certain anchor and cable, belonging to the said ship; against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown and dignity.

(8.) Indictment for a like offence.

IV. Burning or Destroying King's Ships, Magazines, &c.

By the 12 Geo. III. c. 24, after reciting that "the safety and preservation of his majesty's ships of war, arsenals, magazines, dock-yards, rope-yards, Persons who shall wilfully set on fire

6. *The Registry Act, &c.*

12 Geo. 3, c. 24.

ships of war, in any of his majesty's dock-yards, or any military, naval, or victualling stores, &c., shall suffer death, as in cases of felony.

victualling-offices, military, naval, and victualling stores, and the places where such stores are kept or deposited, either within this realm, or in any of the islands, countries, forts, or places thereunto belonging, is of great importance to the welfare and security of the kingdom;" it is enacted, "that if any person or persons shall, either within this realm, or in any of the islands, countries, forts, or places thereunto belonging, wilfully and maliciously set on fire, or burn, or otherwise destroy, or cause to be set on fire, or burnt, or otherwise destroyed, or aid, procure, abet, or assist in the setting on fire, or burning, or otherwise destroying of any of his majesty's ships or vessels of war, whether the said ships or vessels of war be on float or building, or begun to be built, in any of his majesty's dock-yards, or building or repairing by contract in any private yards, for the use of his majesty, or any of his majesty's arsenals, magazines, dock-yards, rope-yards, victualling offices, or any of the buildings erected therein, or belonging thereto; or any timber or materials there placed, for building, repairing, or fitting out of ships or vessels, or any of his majesty's military, naval, or victualling stores, or other ammunition of war, or any place or places, where any such military, naval, or victualling stores, or other ammunition of war, is, are, or shall be kept, placed, or deposited; that then the person or persons guilty of any such offence, being thereof convicted in due form of law, shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy." (As to clergy being abolished, see "*Clergy, benefit of*," Vol. I.)

Person offending out of this realm may be tried in any shire, if within this realm.

Sect. 2. "That any person who shall commit any of the offences before-mentioned, in any place out of this realm, may be indicted and tried for the same, either in any shire or county within this realm, in like manner and form as if such offence had been committed within the said shire or county, or in such island, country, or place, where such offence shall have been actually committed, as his majesty, his heirs, or successors, may deem most expedient for bringing such offender to justice; any law, usage, or custom notwithstanding."

See these provisions more fully considered, "*Stores*," *post*.

V. Preventing Seamen Working, &c.

Preventing seamen working, &c.

By the 9 Geo. IV. c. 31, s. 26, any person preventing seamen by force from working in the ship, &c., may be punished before two magistrates with imprisonment not exceeding three months. See this enactment and law fully noticed, "*Assault*," Vol. I. p. 293.

VI. The Registry Act, and herein of the Offence of Masters Detaining the Registry, &c.

3 & 4 Wil. 4, c. 55.

6 Geo. 4, c. 110.

Commencement of act.

No vessel to enjoy privileges until registered.

By the 3 & 4 Wil. IV. c. 55, intituled "*An Act for the registering of British Vessels*," [28th August, 1833,] after reciting that "an act was passed in the sixth year of the reign of his late majesty, King George the Fourth, intituled '*An Act for the registering of British Vessels*,' whereby the laws in relation to the registration of British vessels were consolidated and amended: and that since the passing of the said act divers acts for the further amendment of the law have been found necessary, and it will be of advantage to the trade and commerce of the country that the said acts should be consolidated into one act:" it is enacted "that this act shall commence upon the first day of September one thousand eight hundred and thirty-three, except where any other commencement is herein particularly directed."

Sect. 2. "No ship or vessel shall be entitled to any of the privileges or advantages of a British-registered ship unless the person or persons claim-

ing property therein shall have caused the same to have been registered in virtue of the said act, or of an act passed in the fourth year of his said late majesty's reign, intituled 'An Act for the registering of British Vessels,' or until such person or persons shall have caused the same to be registered in manner hereinafter mentioned, and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows: *videlicet*,

6. *The Registry Act, &c.*
3 & 4 Wil. 4, c. 55.
4 Geo. 4, c. 41.

'This is to certify, that in pursuance of an act passed in the fourth year of the reign of King William the Fourth, intituled "An Act" [*here insert the title of this act, the names, occupation, and residence of the subscribing owners*], having made and subscribed the declaration required by the said act, and having declared that [*he or they*] together with [*names, occupations, and residence of non-subscribing owners*] [*is or are*] sole owner or owners in the proportion specified on the back hereof, of the ship or vessel called the [*ship's name*] of [*place to which the vessel belongs*], which is of the burthen of [*number of tons*], and whereof [*master's name*] is master, and that the said ship or vessel was [*when and where built, or condemned as prize, referring to builder's certificate, judge's certificate, or certificate of last registry, then delivered up to be cancelled*], and [*name and employment of surveying officer*] having certified to us that the said ship or vessel has [*number*] decks and [*number*] masts, that her length from the fore part of the main stem to the after part of the stern post aloft is [*number of feet and inches*], her breadth at the broadest part [*stating whether that be above or below the main wales*] is [*number of feet and inches*], her [*height between decks if more than one deck, or depth in the hold if only one deck*] is [*number of feet and inches*], that she is [*how rigged*] rigged with a [*standing or running*] bowsprit, is [*description of stern*] sterned, [*carvel or clincher*] built, has [*whether any or no*] gallery, and [*kind of head, if any*] head; and the said subscribing owners having consented and agreed to the above description, and having caused sufficient security to be given as is required by the said act, the said ship or vessel called the [*name*] has been duly registered at the port of [*name of port*]. Certified under our hands at the custom house in the said port of [*name of port*] this [*date*] day of [*name of month*] in the year [*words at length*].

Form of certificate of registry.

' [*Signed*] Collector.
' [*Signed*] Controller.'

And on the back of such certificate of registry there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate in the form and manner following:

' Names of the several Owners within mentioned.	Number of Sixty-fourth Shares held by each Owner.
' [<i>Name</i>	<i>Thirty-two.</i>]
' [<i>Name</i>	<i>Sixteen.</i>]
' [<i>Name</i>	<i>Eight.</i>]
' [<i>Name</i>	<i>Eight.</i>]

' [*Signed*] Collector.
' [*Signed*] Controller.'

Sect. 3. "The persons authorized and required to make such registry and grant such certificates shall be the several persons hereinafter mentioned and described; (that is to say,)

Persons authorized to make registry and grant certificates.

'The collector and controller of his majesty's customs in any port in the United Kingdom of Great Britain and Ireland, and in the Isle of Man respectively, in respect of ships or vessels to be there registered:

In United Kingdom and Isle of Man:

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

In Guernsey, &c.

In colonies in Asia, Africa, and America.

In territories of E. I. Company.

In other places within limits of the charter.

In Malta, Gibraltar, &c.

Limitation as to vessels registered at Malta, Gibraltar, Heligoland.

Certain powers of collectors and controllers, by whom to be exercised in certain cases.

Powers of commissioners of customs in United Kingdom given to governors, &c. abroad.

Ships exercising privileges before registry to be forfeited ;

but not to affect vessels registered under previous act.

What ships are entitled to be registered.

'The principal officers of his majesty's customs in the island of Guernsey or Jersey, together with the governor, lieutenant-governor, or commander-in-chief of those islands respectively, in respect of ships or vessels to be there registered :

'The collector and controller of his majesty's customs of any port in the British possessions in Asia, Africa, and America, or the collector of any such port at which no appointment of a controller has been made, in respect of ships or vessels to be there registered :

'The collector of duties at any port in the territories under the government of the East India company, within the limits of the charter of the said company, or any other person of the rank in the said company's service of senior merchant, or of six years standing in the said service, being respectively appointed to act in the execution of this act by any of the governments of the said company, in respect of ships or vessels to be there registered :

'The collector of duties at any British possession within the said limits, and not under the government of the said company, and at which a custom-house is not established, together with the governor, lieutenant-governor, or commander-in-chief of such possession, in respect of ships or vessels to be there registered :

'The governor, lieutenant-governor, or commander-in-chief of Malta, Gibraltar, Heligoland, and Cape of Good Hope respectively, in respect of ships or vessels to be there registered :

Provided always, that no ship or vessel to be registered at Heligoland, except such as is wholly of the built of that place, and that ships or vessels, after having been registered at Malta, Gibraltar, or Heligoland, shall not be registered elsewhere ; and that ships or vessels registered at Malta, Gibraltar, or Heligoland shall not be entitled to the privileges and advantages of British ships in any trade between the said United Kingdom and any of the British possessions in America : provided also, that wherever in and by this act it is directed or provided that any act, matter, or thing shall and may be done or performed by, to, or with any collector and controller of his majesty's customs, the same shall or may be done or performed by, to, or with the several persons respectively hereinbefore authorized and required to make registry, and to grant certificates of registry as aforesaid, and according as the same act, matter, or thing is to be done or performed at the said several and respective places, and within the jurisdiction of the said several persons respectively : provided also, that wherever in and by this act it is directed or provided that any act, matter, or thing shall or may be done or performed by, to, or with the commissioners of his majesty's customs, the same shall or may be done or performed by, to, or with the governor, lieutenant-governor, or commander-in-chief of any place where any ship or vessel may be registered under the authority of this act, so far as such act, matter, or thing can be applicable to the registering of any ship or vessel at such place."

Sect. 4. "In case any ship or vessel not being duly registered, and not having obtained such certificate of registry as aforesaid, shall exercise any of the privileges of a British ship, the same shall be subject to forfeiture, and also all the guns, furniture, ammunition, tackle, and apparel to the same ship or vessel belonging, and shall and may be seized by any officer or officers of his majesty's customs : provided always, that nothing in this act shall extend or be construed to extend to affect the privileges of any ship or vessel which shall prior to the commencement of this act have been registered by virtue of an act passed in the sixth year of the reign of his late majesty king George the Fourth, intituled 'An Act for the registering of British Vessels.'"

Sect. 5. "No ship or vessel shall be registered, or having been registered shall be deemed to be duly registered, by virtue of this act, except such as are wholly of the built of the said United Kingdom, or of the Isle of Man, or of the islands of Guernsey or Jersey, or of some of the colonies, plantations, islands, or territories in Asia, Africa, or America, or of Malta, Gibraltar, or Heligoland, which belong to his majesty, his heirs or successors, at the time

of the building of such ships or vessels, or such ships or vessels as shall have been condemned in any court of Admiralty as prize of war, or such ships or vessels as shall have been condemned in any competent court as forfeited for the breach of the laws made for the prevention of the slave trade, and which shall wholly belong and continue wholly to belong to his majesty's subjects duly entitled to be owners of ships or vessels registered by virtue of this act."

Sect. 6. "No Mediterranean pass shall be issued for the use of any ship, as being a ship belonging to Malta or Gibraltar, except such as be duly registered at those places respectively, or such as, not being entitled to be so registered, shall have wholly belonged, before the 10th day of October, 1827, and shall have continued wholly to belong, to persons actually residing at those places respectively, as inhabitants thereof, and entitled to be owners of British ships there registered, or who, not being so entitled, shall have so resided upwards of fifteen years prior to the said 10th day of October, 1827."

Sect. 7. "No ship or vessel shall continue to enjoy the privileges of a British ship after the same shall have been repaired in a foreign country, if such repairs shall exceed the sum of twenty shillings for every ton of the burthen of the said ship or vessel, unless such repairs shall have been necessary by reason of extraordinary damage sustained by such ship or vessel during her absence from his majesty's dominions, to enable her to perform the voyage in which she shall have been engaged, and to return to some port or place in the said dominions; and whenever any ship or vessel which has been so repaired in a foreign country shall arrive at any port in his majesty's dominions as a British-registered ship or vessel, the master or other person having the command or charge of the same shall, upon the first entry thereof, report to the collector and controller of his majesty's customs at such port that such ship or vessel has been so repaired, under penalty of twenty shillings for every ton of the burthen of such ship or vessel, according to the admeasurement thereof; and if it shall be proved to the satisfaction of the commissioners of his majesty's customs that such ship or vessel was seaworthy at the time when she last departed from any port or place in his majesty's dominions, and that no greater quantity of such repairs have been done to the said vessel than was necessary as aforesaid, it shall be lawful for the said commissioners, upon a full consideration of all the circumstances, to direct the collector and controller of the port where such ship or vessel shall have arrived, or where she shall then be, to certify on the certificate of the registry of such ship or vessel that it has been proved to the satisfaction of the commissioners of his majesty's customs that the privileges of the said ship or vessel have not been forfeited, notwithstanding the repairs which have been done to the same in a foreign country."

Sect. 8. "If any ship or vessel registered under the authority of this or any other act shall be deemed or declared to be stranded or unseaworthy, and incapable of being recovered, or repaired to the advantage of the owners thereof, and shall for such reasons be sold by order or decree of any competent court for the benefit of the owners of such ship or vessel or other persons interested therein, the same shall be taken and deemed to be a ship or vessel lost or broken up to all intents and purposes within the meaning of this act, and shall never again be entitled to the privileges of a British-built ship for any purposes of trade or navigation."

Sect. 9. "No British ship or vessel which has been or shall hereafter be captured by and become prize to an enemy or sold to foreigners shall again be entitled to the privileges of a British ship: provided always, that nothing contained in this act shall extend to prevent the registering of any ship or vessel whatever which shall afterwards be condemned in any court of Admiralty as prize of war, or in any competent court, for breach of laws made for the prevention of the slave trade."

Sect. 10. "No such registry shall hereafter be made, or certificate thereof granted, by any person or persons hereinbefore authorized to make such registry and grant such certificate, in any other port or place than the port or place to which such ship or vessel shall properly belong, except so far as

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Mediterranean pass may be issued at Malta or Gibraltar for certain ships only.

Foreign repairs not to exceed 20s. per ton.

The master on arrival to report such repairs.

Necessity of such repairs to be proved to commissioners of customs.

Ships declared unseaworthy, to be deemed ships lost or broken up.

British ships captured not to be again entitled to registry; but ships condemned in courts of admiralty may be registered.

Ships shall be registered at the port to which they belong.

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Commissioners of customs may permit registry at other ports.

Book of registers to be kept, and accounts to be transmitted to commissioners.

Port to which vessels shall be deemed to belong.

Change of subscribing owners to require registry *de novo*.

If registry *de novo* cannot be made, ship may go one voyage with permission indorsed on certificate of registry.

Ships built in foreign possessions, for owners resident in United Kingdom, may have a certificate from the collector, &c. to trade for two years or until arrival in United Kingdom.

Persons residing in foreign countries may not be owners, unless

relates to such ships or vessels as shall be condemned as prizes in any of the islands of Guernsey, Jersey, or Man, which ships or vessels shall be registered in manner hereinafter directed; but that all and every registry and certificate made and granted in any port or place to which any such ship or vessel does not properly belong shall be utterly null and void to all intents and purposes, unless the officers aforesaid shall be specially authorized and empowered to make such registry and grant such certificate in any other port by an order in writing under the hands of the commissioners of his majesty's customs, which order the said commissioners are hereby authorized and empowered to issue if they shall see fit; and at every port where registry shall be made in pursuance of this act a book shall be kept by the collector and controller, in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year; and such collector and controller shall forthwith, or within one month at the furthest, transmit to the commissioners of his majesty's customs a true and exact copy, together with the number, of every certificate which shall be by them so granted."

Sect. 11. "Every ship or vessel shall be deemed to belong to some port at or near to which some or one of the owners, who shall make and subscribe the declaration required by this act before registry be made, shall reside; and whenever such owner or owners shall have transferred all his or their share or shares in such ship or vessel, the same shall be registered *de novo* before such ship or vessel shall sail or depart from the port to which she shall then belong, or from any other port which shall be in the same part of the United Kingdom, or the same colony, plantation, island, or territory as the said port shall be in: provided always, that if the owner or owners of such ship or vessel cannot in sufficient time comply with the requisites of this act, so that registry may be made before it shall be necessary for such ship or vessel to sail or depart upon another voyage, it shall be lawful for the collector and controller of the port where such ship or vessel may then be to certify upon the back of the existing certificate of registry of such ship or vessel, that the same is to remain in force for the voyage upon which the said ship or vessel is then about to sail or depart: provided also, that if any ship or vessel shall be built in any of the colonies, plantations, islands, or territories in Asia, Africa, or America, to his majesty belonging, for owners residing in the United Kingdom, and the master of such ship or vessel, or the agent for the owner or owners thereof, shall have produced to the collector and controller of the port at or near to which such ship or vessel was built, the certificate of the builder required by this act, and shall have made and subscribed a declaration before such collector and controller of the names and descriptions of the principal owners of such ship or vessel, and that she is the identical ship or vessel mentioned in such certificate of the builder, and that no foreigner, to the best of his knowledge and belief, has any interest therein; the collector and controller of such port shall cause such ship or vessel to be surveyed and measured in like manner as is directed for the purpose of registering any ship or vessel, and shall give the master of such ship or vessel a certificate under their hands and seals, purporting to be under the authority of this act, and stating when and where and by whom such ship or vessel was built, the description, tonnage, and other particulars required on registry of any ship or vessel, and such certificate shall have all the force and virtue of a certificate of registry under this act, during the term of two years, unless such ship shall sooner arrive at some place in the United Kingdom; and such collector and controller shall transmit a copy of such certificate to the commissioners of his majesty's customs."

Sect. 12. "No person who has taken the oath of allegiance to any foreign state, except under the terms of some capitulation, unless he shall afterwards become a denizen or naturalized subject of the United Kingdom, by his majesty's letters patent or by act of parliament, nor any person usually

residing in any country not under the dominion of his majesty, his heirs and successors, unless he be a member of some British factory, or agent for or partner in any house or copartnership actually carrying on trade in Great Britain or Ireland, shall be entitled to be the owner, in whole or in part, directly or indirectly, of any ship or vessel required and authorized to be registered by virtue of this act; save and except that it shall be lawful for any person who was a member of the company of merchants trading to the Levant seas at the time of its dissolution, and who was a resident at any of the factories of the said company, to continue to hold any share or shares in any British-registered ship of which at the time of such residence he was an owner or part owner, although such person shall continue to reside at any of the places where such factories had existed prior to the dissolution of the said company."

Sect. 13. "No registry shall henceforth be made or certificate granted until the following declaration be made and subscribed, before the person or persons hereinbefore authorized to make such registry and grant such certificate respectively, by the owner of such ship or vessel if such ship or vessel is owned by or belongs to one person only, or in case there shall be two joint owners, then by both of such joint owners if both shall be resident within twenty miles of the port or place where such registry is required, or by one of such owners if one or both of them shall be resident at a greater distance from such port or place; or if the number of such owners or proprietors shall exceed two, then by the greater part of the number of such owners or proprietors if the greater number of them shall be resident within twenty miles of such port or place as aforesaid, not in any case exceeding three of such owners or proprietors, unless a greater number shall be desirous to join in making and subscribing the said declaration, or by one of such owners if all, or all except one, shall be resident at a greater distance:

'I, A. B., of [place of residence and occupation] do truly declare, that the ship or vessel [name] of [port or place], whereof [master's name] is at present master, being [kind of built, burthen, &c., as described in the certificate of the surveying officer], was [when and where built, or, if prize or forfeited, capture and condemnation as such], and that I the said A. B. [and the other owner's names and occupations, if any, and where they respectively reside, videlicet, town, place, or parish, and county, or if member of and resident in any factory in foreign parts, or in any foreign town or city, being an agent for or partner in any house or copartnership actually carrying on trade in Great Britain or Ireland, the name of such factory, foreign town, or city, and the names of such house or copartnership] am [or are] sole owner [or owners] of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I, the said A. B. [and the said other owners, if any] am [or are] truly and bona fide a subject [or subjects] of Great Britain; and that I the said A. B. have not [nor have any of the other owners, to the best of my knowledge and belief] taken the oath of allegiance to any foreign state whatever [except under the terms of some capitulation, describing the particulars thereof], or that since my taking [or his or their taking] the oath of allegiance to [naming the foreign states respectively to which he or any of the said owners shall have taken the same] I have [or he or they hath or have] become a denizen [or denizens, or naturalized subject or subjects, as the case may be] of the United Kingdom of Great Britain and Ireland by his majesty's letters patent or by an act of parliament [naming the times when such letters of denization have been granted respectively, or the year or years in which such act or acts for naturalization have passed respectively]; and that no foreigner, directly or indirectly, hath any share or part interest in the said ship or vessel.'

Provided always, that if it shall become necessary to register any ship or vessel belonging to any corporate body in the United Kingdom, the following declaration, in lieu of the declaration hereinbefore directed, shall be taken and subscribed by the secretary or other proper officer of such corporate body; (that is to say,)

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

members of British factories, or agents for or partners in British houses, or member of merchants trading to Levant seas.

Declaration to be made by subscribing owners previous to registry.

Proportion of owners who shall subscribe and take the declaration.

Form of declaration.

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Addition to declaration in case the required number of owners do not attend.

Vessels to be surveyed previous to registry.

Certificate of survey to be given;

Owner or master concurring therein.

Mode of admeasurement to ascertain tonnage.

Mode of ascertaining tonnage when vessels are afloat.

‘I, A. B., secretary or officer of [name of company or corporation] do truly declare, that the ship or vessel [name] of [port], whereof [master's name] is at present master, being [kind of built, burthen, &c., as described in the certificate of the surveying officer], was [when and where built, or, if prize or forfeited, capture and condemnation as such], and that the same doth wholly and truly belong to [name of company or corporation].’”

Sect. 14. “In case the required number of joint owners or proprietors of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners, proprietor or proprietors, as shall personally attend and make and subscribe the declaration aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent is or are not resident within twenty miles of such port or place, and hath or have not, to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.”

Sect. 15. “And in order to enable the collector and controller of his majesty's customs to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this act, and also to enable all other officers of his majesty's customs, on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted; be it enacted, that previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the commissioners of his majesty's customs (taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships,) shall go on board of every such ship or vessel as is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate hereinbefore directed, in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master; and shall deliver a true and just account in writing of all such particulars of the built, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the collector and controller authorized as aforesaid to make such registry and grant such certificate of registry; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.”

Sect. 16. “For the purpose of ascertaining the tonnage of ships or vessels the rule for admeasurement shall be as follows; (that is to say,) the length shall be taken on a straight line along the rabbet of the keel, from the back of the main stern-post to a perpendicular line from the fore part of the main stem under the bowsprit, from which subtracting three fifths of the breadth, the remainder shall be esteemed the just length of the keel to find the tonnage; and the breadth shall be taken from the outside of the outside plank in the broadest part of the ship, whether that shall be above or below the main wales, exclusive of all manner of doubling planks that may be wrought upon the sides of the ship; then multiplying the length of the keel by the breadth so taken, and that product by half the breadth, and dividing the whole by ninety-four, the quotient shall be deemed the true contents of the tonnage.”

Sect. 17. “And whereas it would in some cases endanger ships or vessels to cause them to be laid on shore; be it therefore enacted, that in cases where it may be necessary to ascertain the tonnage of any ship or vessel when afloat, according to the foregoing rule, the following method shall be observed; (that is to say,) drop a plumb line over the stern of the ship, and

measure the distance between such line and the after part of the stern-post at the load watermark, then measure from the top of the plumb line, in a parallel direction with the water, to a perpendicular point immediately over the load watermark at the forepart of the main stem, subtracting from such measurement the above distance, the remainder will be the ship's extreme, from which is to be deducted three inches for every foot of the load draught of water for the rake abaft, also three fifths of the ship's breadth for the rake forward, the remainder shall be esteemed the just length of the keel to find the tonnage; and the breadth shall be taken from outside to outside of the plank in the broadest part of the ship, whether that shall be above or below the main wales, exclusive of all manner of sheathing or doubling that may be wrought on the side of the ship; then multiplying the length of the keel for tonnage by the breadth so taken, and that product by half the breadth, and dividing by ninety-four, the quotient shall be deemed the true contents of the tonnage."

Sect. 18. Provided "that in each of the several rules hereinbefore prescribed, when used for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the length of the engine room shall be deducted from the whole length of such ship or vessel, and the remainder shall, for such purpose, be deemed the whole length of the same."

Sect. 19. "Whenever the tonnage of any ship or vessel shall have been ascertained according to the rule herein prescribed (except in the case of ships or vessels which have been admeasured afloat), such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form and burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed."

Sect. 20. "At the time of the obtaining of the certificate of registry as aforesaid, sufficient security by bond shall be given to his majesty, his heirs and successors, by the master and such of the owners as shall personally attend, as is hereinbefore required, such security to be approved of and taken by the person or persons hereinbefore authorized to make such registry and grant such certificate of registry at the port or place in which such certificate shall be granted, in the penalties following; (that is to say,) if such ship or vessel shall be a decked vessel, or be above the burthen of fifteen tons and not exceeding fifty tons, then in the penalty of one hundred pounds; if exceeding the burthen of fifty tons and not exceeding one hundred tons, then in the penalty of three hundred pounds; if exceeding the burthen of one hundred tons and not exceeding two hundred tons, then in the penalty of five hundred pounds; if exceeding the burthen of two hundred tons and not exceeding three hundred tons, then in the penalty of eight hundred pounds; and if exceeding the burthen of three hundred tons, then in the penalty of one thousand pounds; and the condition of every such bond shall be, that such certificate shall not be sold, lent, or otherwise disposed of to any person or persons whatever, and that the same shall be solely made use of for the service of the ship or vessel for which it is granted; and that in case such ship or vessel shall be lost or taken by the enemy, burnt or broken up, or otherwise prevented from returning to the port to which she belongs, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the crown, or shall under any circumstances have been registered *de novo*, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in his majesty's dominions, to the collector and controller of some port in Great Britain or of the Isle of Man, or of the British plantations, or to the governor, lieutenant governor, or commander in chief for the time being of the islands of Guernsey or Jersey; and that if any foreigner, or any person or persons for the use and benefit of any foreigner, shall purchase or otherwise become

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Engine room in steam vessels to be deducted.

Tonnage when so ascertained to be ever after deemed the tonnage.

Bond to be given at the time of registry.

Conditions that the certificate shall be solely made use of for the service of the vessel, or given up to be cancelled in certain cases.

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

If ship at the time of registry be at any other port than that of registry, the master may there give bond.

When master is changed new master to give similar bond, and his name to be indorsed on certificate of registry.

Bonds liable to same duties of stamps as bonds for customs.

Certificate of registry to be given up by all

entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of the British colonies, plantations, islands, or territories aforesaid, then and in such case the certificate of registry shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the person or persons hereinbefore authorized to make registry and grant certificate of registry at such port or place respectively as aforesaid; and if such ship or vessel shall be in any foreign port when such purchase or transfer of property shall take place, then that the certificate shall be delivered up to the British consul or other chief British officer resident at or nearest to such foreign port; or if such ship or vessel shall be at sea when such purchase or transfer of property shall take place, then that the certificate shall be delivered up to the British consul or other chief British officer at the foreign port or place in or at which the master or other person having or taking the charge or command of such ship or vessel shall first arrive after such purchase or transfer of property at sea, immediately after his arrival at such foreign port; but if such master or other person who had the command thereof at the time of such purchase or transfer of property at sea shall not arrive at a foreign port, but shall arrive at some port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of his majesty's said colonies, plantations, islands, or territories, then that the certificate shall be delivered up, in manner aforesaid, within fourteen days after the arrival of such ship or vessel, or of the person who had the command thereof, in any port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of any of his majesty's said colonies, plantations, islands, or territories: provided always, that if it shall happen that at the time of registry of any ship or vessel the same shall be at any other port than the port to which she belongs, so that the master of such ship or vessel cannot attend at the port of registry to join with the owner or owners in such bond as aforesaid, it shall be lawful for him to give a separate bond to the like effect, at the port where such ship or vessel may then be, and the collector and controller of such other port shall transmit such bond to the collector and controller of the port where such ship or vessel is to be registered, and such bond, and the bond also given by the owner or owners, shall together be of the same effect against the master and owner or owners, or either of them, as if they had bound themselves jointly and severally in one bond."

Sect. 21. "When and so often as the master or other person having or taking the charge or command of any ship or vessel registered in manner hereinbefore directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry and grant such certificates of registry at the port where such change shall take place the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof to the commissioners of his majesty's customs: provided always, that before the name of such new master shall be indorsed on the certificate of registry he shall be required to give and shall give a bond in the like penalties and under the same conditions as are contained in the bond hereinbefore required to be given at the time of registry of any ship or vessel."

Sect. 22. "All bonds required by this act shall be liable to the same duties of stamps as bonds given for or in respect of the duties of customs are or shall be liable to under any act for the time being in force for granting duties of stamps."

Sect. 23. "If any person whatever shall at any time have possession of and wilfully detain any certificate of registry granted under this or any other act, which ought to be delivered up to be cancelled according to any of the

conditions of the bond hereinbefore required to be given upon the registry of any ship or vessel, such person is hereby required and enjoined to deliver up such certificate of registry in manner directed by the conditions of such bond in the respective cases and under the respective penalties therein provided."

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

persons as directed by the bond.

Name of vessel which has been registered never afterwards to be changed, and to be painted on the stern.

Penalty for omission, 100*l.*

Sect. 24. "It shall not be lawful for any owner or owners of any ship or vessel to give any name to such ship or vessel other than that by which she was first registered in pursuance of this or any other act; and that the owner or owners of all and every ship or vessel which shall be so registered shall, before such ship or vessel, after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters, of a length of not less than four inches, upon a black ground, on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this act, and the port to which she belongs, in a distinct and legible manner, and shall so keep and preserve the same; and that if such owner or owners or master or other person having or taking the charge or command of such ship or vessel shall permit such ship or vessel to begin to take in any cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in anywise hide or conceal, or cause or procure or permit the same to be done (unless in the case of square-rigged vessels in times of war), or shall in any written or printed paper, or other document, describe such ship or vessel by any name other than that by which she was first registered pursuant to this act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described, by any other name to any officer or officers of his majesty's revenue in the due execution of his or their duty, then and in every such case such owner or owners or master or other person having or taking the charge or command of such ship or vessel shall forfeit the sum of one hundred pounds."

Sect. 25. "All and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall and they are hereby required to produce to the person or persons authorized to grant such certificate a true and full account, under the hand of the builder of such ship or vessel, of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, together with the name of the first purchaser or purchasers thereof (which account such builder is hereby directed and required to give under his hand on the same being demanded by such person or persons so applying for a certificate as aforesaid), and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid."

Builder's certificate of particulars of ship.

Declaration to be made thereto.

Sect. 26. "If the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the commissioners of his majesty's customs, such commissioners shall and may permit such ship or vessel to be registered *de novo*, and a certificate thereof to be granted: provided always, that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such commissioners shall and may grant a licence for the present use of such ship or vessel, which licence shall, for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this act: provided always, that before such registry *de novo* be made, the owner or owners and master shall give bond to the commissioners aforesaid in such sum as to them shall seem fit, with a condition that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper officers of his majesty's customs to be cancelled, and that no illegal use has been or shall be made thereof with his or their privity or knowledge; and further, that before any such licence shall be granted as aforesaid the master of such ship or vessel shall also make and subscribe

Certificate of registry lost or mislaid;

Commissioners may permit registry *de novo*;

or grant a licence.

Bond respecting lost certificate of registry:

Condition.

Declaration to be made before licence be granted.

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Before licence be granted ship to be surveyed as if for registry ;

and registry may be made after departure of the ship ;

and certificate transmitted to be exchanged for the licence.

Persons detaining certificate of registry to forfeit 100*l*.

Justice to certify detainer, and ship to be registered *de novo*.

If person detaining certificate have absconded, ship may be registered as in case of lost certificate.

a declaration that the same has been registered as a British ship, naming the port where and the time when such registry was made, and all the particulars contained in the certificate thereof, to the best of his knowledge and belief, and shall also give such bond and with the same condition as is before mentioned : provided also, that before any such licence shall be granted such ship or vessel shall be surveyed in like manner as if a registry *de novo* were about to be made thereof ; and the certificate of such survey shall be preserved by the collector and controller of the port to which such ship or vessel shall belong ; and in virtue thereof it shall be lawful for the said commissioners and they are hereby required to permit such ship or vessel to be registered after her departure, whenever the owner or owners shall personally attend to take and subscribe the declaration required by this act before registry be made, and shall also comply with all other requisites of this act, except so far as relates to the bond to be given by the master of such ship or vessel ; which certificate of registry the said commissioners shall and may transmit to the collector and controller of any other port, to be by them given to the master of such ship or vessel, upon his giving such bond, and delivering up the licence which had been granted for the then present use of such ship or vessel."

Sect. 27. " And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted ; be it therefore enacted, that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not,) shall wilfully detain and refuse to deliver up the same to the proper officers of his majesty's customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any justice of the peace residing near to the place where such detainer and refusal shall be in Great Britain or Ireland, or to any member of the supreme court of justice or any justice of the peace in the islands of Jersey, Guernsey, or Man, or in any colony, plantation, island, or territory to his majesty belonging in Asia, Africa, or America, or in Malta, Gibraltar, or Heligoland, where such detainer and refusal shall be in any of the places last mentioned ; and on such complaint the said justice or other magistrate shall and is hereby required, by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal ; and if it shall appear to the said justice or other magistrate, on examination of such person or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be thereof convicted, and shall forfeit and pay the sum of one hundred pounds, and on failure of payment thereof he shall be committed to the common gaol, there to remain without bail or mainprize for such time as the said justice or other magistrate shall in his discretion deem proper, not being less than three months nor more than twelve months ; and the said justice or other magistrate shall and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel, who shall, on the terms and conditions of law being complied with, make registry of such ship or vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo* ; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded, so that the said warrant of the justice or other magistrate cannot be executed upon him, and proof thereof shall be made to the satisfaction of

the commissioners of his majesty's customs, it shall be lawful for the said commissioners to permit such ship or vessel to be registered *de novo*, or otherwise, in their discretion, to grant a licence for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid." 6. *The Registry Act, &c.*
3 & 4 Wil. 4, c. 55.

In *Bowen v. Fox*, 10 B. & C. 41, 5 Man. & R. 5, 4 C. & P. 452, it was made a question, but not decided, whether a person holding the certificate of a ship's register, which had been deposited as a security for advances for the use of the ship, and refusing to deliver it up when demanded, is guilty of a wilful detention within the meaning of the now repealed act, 4 Geo. IV. c. 41, s. 25. Decisions.

In *Rex v. Pixley*, 13 East, 91, the conviction upon an enactment similar to that of 3 & 4 Wil. IV. c. 55, s. 27, charged the defendant with unlawfully detaining and unlawfully refusing to deliver up a certificate of registry to the proper officer, on being required to deliver the same by the owner of the ship, and such conviction was held not to be supported by proof that the defendant withheld the certificate from a person sent by the owner with a letter requiring the defendant generally to deliver it in order that an indorsement might be made upon it at the custom-house.

A conviction under the above enactment of 3 & 4 Wil. IV. c. 55, s. 27, stated that the defendant refused to deliver up a certificate of registry to *his majesty's officers of customs*: held that this was bad, as not bringing the offence within the words of the section "shall refuse to deliver up to the proper officers of his majesty's customs."

The conviction did not state for what purpose the certificate was required: held per Lord Denman, C. J., and Williams, J., that this omission also made the conviction bad, as not satisfying the words of the same section "to deliver up for the purpose of such ship or vessel, as occasion shall require." Held, also, that these were defects in substance, and not cured by the general act 3 Geo. IV. c. 23, s. 3. (*R. v. Walsh*, 1 Adol. & Ell. 481; 3 Nev. & M. 632, S. C.)

Sect. 28, "If any ship or vessel, after she shall have been registered pursuant to the directions of this act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, in such case such ship or vessel shall be registered *de novo*, in manner hereinbefore required, as soon as she returns to the port to which she belongs, or to any other port which shall be in the same part of the United Kingdom, or in the same colony, plantation, island, or territory, as the said port shall be in, on failure whereof such ship or vessel shall to all intents and purposes be considered and deemed and taken to be a ship or vessel not duly registered." Ship altered in certain manner to be registered *de novo*.

Sect. 29. "The owner or owners of all such ships and vessels as shall be taken by any of his majesty's ships or vessels of war, or by any private or other ship or vessel, and condemned as lawful prize in any court of admiralty, or of such ships or vessels as shall be condemned in any competent court as forfeited for breach of the laws for the prevention of the slave trade, shall, for the purpose of registering any such ship or vessel, produce to the collector and controller of his majesty's customs a certificate of the condemnation of such ship or vessel, under the hand and seal of the judge of the court in which such ship or vessel shall have been condemned (which certificate such judge is hereby authorized and required to grant), and also a true and exact account in writing of all the particulars contained in the certificate hereinbefore set forth, to be made and subscribed by one or more skilful person or persons to be appointed by the court then and there to survey such ship or vessel, and shall also make and subscribe a declaration before the collector and controller that such ship or vessel is the same vessel which is mentioned in the certificate of the judge aforesaid." Vessels condemned as prize, or for breach of laws against slave trade, certificate of condemnation to be produced.

Sect. 30. "Provided that no ship or vessel which shall be taken and condemned as prize or forfeiture as aforesaid shall be registered in the islands of Guernsey, Jersey, or Man, although belonging to his majesty's subjects residing in those islands, or in some one or other of them; but the same Prize vessels not to be registered at Guernsey, Jersey, or Man; but at certain ports.

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Transfers of interest to be made by bill of sale ;

reciting certificate of registry.

Bill of sale not void by unimportant error of recital, &c.

Property in ships to be divided into sixty-four parts or shares.

Declaration upon first registry to state the number of such shares held by each owner.

Smaller portions may be conveyed without stamp.

Partners may hold ships or shares without distinguishing proportionate interest of each owner.

Only thirty-two persons to be owners of any ship at one time. Not to affect the equitable title of heirs, &c.

Joint stock companies.

Trustees may apply to have registry made.

shall be registered either at Southampton, Weymouth, Exeter, Plymouth, Falmouth, Liverpool, or Whitehaven, by the collector and controller at such ports respectively, who are hereby authorized and required to register such ship or vessel, and to grant a certificate thereof in the form and under the regulations and restrictions in this act contained."

Sect. 31. "When and so often as the property in any ship or vessel, or any part thereof, belonging to any of his majesty's subjects, shall, after registry thereof, be sold to any other or others of his majesty's subjects, the same shall be transferred by bill of sale or other instrument in writing, containing a recital of the certificate of registry of such ship or vessel, or the principal contents thereof, otherwise such transfer shall not be valid or effectual for any purpose whatever, either in law or in equity: provided always, that no bill of sale shall be deemed void by reason of any error in such recital, or by the recital of any former certificate of registry instead of the existing certificate, provided the identity of the ship or vessel intended in the recital be effectually proved thereby."

Sect. 32. "The property in every ship or vessel of which there are more than one owner shall be taken and considered to be divided into sixty-four equal parts or shares, and the proportion held by each owner shall be described in the registry as being a certain number of sixty-fourth parts or shares, and that no person shall be entitled to be registered as an owner of any ship or vessel in respect of any proportion of such ship or vessel which shall not be an integral sixty-fourth part or share of the same; and upon the first registry of any ship or vessel the owner or owners who shall take and subscribe the declaration required by this act before registry be made shall also declare the number of such parts or shares then held by each owner, and the same shall be so registered accordingly: provided always, that if it shall at any time happen that the property of any owner or owners in any ship or vessel cannot be reduced by division into any number of integral sixty-fourth parts or shares, it shall and may be lawful for the owner or owners of such fractional parts as shall be over and above such number of integral sixty-fourth parts or shares into which such property in any ship or vessel can be reduced by division to transfer the same one to another, or jointly to any new owner, by memorandum upon their respective bills of sale, or by fresh bill of sale, without such transfer being liable to any stamp duty: provided also, that the right of any owner or owners to any such fractional parts shall not be affected by reason of the same not having been registered: provided also that it shall be lawful for any number of such owners, named and described in such registry, being partners in any house or copartnership actually carrying on trade in any part of his majesty's dominions, to hold any ship or vessel, or any share or shares of any ship or vessel, in the name of such house or copartnership, as joint owners thereof, without distinguishing the proportionate interest of each of such owners, and that such ship or vessel or the share or shares thereof so held in copartnership shall be deemed and taken to be partnership property to all intents and purposes, and shall be governed by the same rules both in law and equity, as relate to and govern all other partnership property in any other goods, chattels and effects whatsoever.

Sect. 33. "No greater number than thirty-two persons shall be entitled to be legal owners at one and the same time of any ship or vessel, as tenants in common, or to be registered as such: provided always, that nothing herein contained shall affect the equitable title of minors, heirs, legatees, creditors, or others, exceeding that number, duly represented by or holding from any of the persons within the said number, registered as legal owners of any share or shares of such ship or vessel: provided also, that if it shall be proved to the satisfaction of the commissioners of his majesty's customs that any number of persons have associated themselves as a joint-stock company, for the purpose of owning any ship or vessel, or any number of ships or vessels, as the joint property of such company, and that such company have duly elected or appointed any number, not less than three, of the members of the same to be trustees of the property in such ship or vessel or ships or vessels so owned by such company, it shall be lawful for such

trustees or any three of them, with the permission of such commissioners, to make and subscribe the declaration required by this act before registry be made, except that instead of stating therein the names and descriptions of the other owners, they shall state the name and description of the company to which such ship or vessel or ships or vessels shall in such manner belong."

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Sect. 34. "No bill of sale or other instrument in writing shall be valid and effectual to pass the property in any ship or vessel, or in any share thereof, or for any other purpose, until such bill of sale or other instrument in writing shall have been produced to the collector and controller of the port at which such ship or vessel is already registered, or to the collector and controller of any other port at which she is about to be registered *de novo*, as the case may be, nor until such collector and controller respectively shall have entered in the book of such last registry, in the one case, or in the book of such registry *de novo*, after all the requisites of law for such registry *de novo* shall have been duly complied with, in the other case, (and which they are respectively hereby required to do upon the production of the bill of sale or other instrument for that purpose,) the name, residence, and description of the vendor or mortgagor, or of each vendor or mortgagor, if more than one, the number of shares transferred, the name, residence, and description of the purchaser or mortgagee, or of each purchaser or mortgagee, if more than one, and the date of the bill of sale or other instrument, and of the production of it; and further, if such ship or vessel is not about to be registered *de novo*, the collector and controller of the port where such ship is registered shall and they are hereby required to indorse the aforesaid particulars of such bill of sale or other instrument on the certificate of registry of the said ship or vessel, when the same shall be produced to them for that purpose, in manner and to the effect following; *videlicet*,

Bills of sale not effectual until produced to officers of customs, and entered in the book of registry or of intended registry.

'Custom House [*Port and Date; Name, Residence, and Description of Vendor or Mortgagor*] has transferred by [*Bill of Sale or other Instrument*] dated [*Date, Number of Shares*] to [*Name, Residence, and Description of Purchaser or Mortgagee.*]

Form of indorsement.

'A. B., Collector.

'C. D., Controller.'

And forthwith to give notice thereof to the commissioners of customs; and in case the collector and controller shall be desired so to do, and the bill of sale or other instrument shall be produced to them for that purpose, then the said collector and controller are hereby required to certify, by indorsement upon the bill of sale or other instrument, that the particulars before mentioned have been so entered in the book of registry, and indorsed upon the certificate of registry as aforesaid."

Notice to commissioners.

Sect. 35. "When and so soon as the particulars of any bill of sale or other instrument by which any ship or vessel, or any share or shares thereof, shall be transferred, shall have been so entered in the book of registry as aforesaid, the said bill of sale or other instrument shall be valid and effectual to pass the property thereby intended to be transferred as against all and every person and persons whatsoever, and to all intents and purposes, except as against such subsequent purchasers and mortgagees who shall first procure the indorsement to be made upon the certificate of registry of such ship or vessel in manner hereinafter mentioned."

Entry of bill of sale to be valid, except in certain cases.

Sect. 36. "When and after the particulars of any bill of sale or other instrument by which any ship or vessel, or any share or shares thereof, shall be transferred, shall have been so entered in the book of registry as aforesaid, the collector and controller shall not enter in the book of registry the particulars of any other bill of sale or instrument purporting to be a transfer by the same vendor or mortgagor or vendors or mortgagors of the same ship or vessel, share or shares thereof, to any other person or persons, unless thirty days shall elapse from the day on which the particulars of the former bill of sale or other instrument were entered in the book of registry; or in case the ship or vessel was absent from the port to which she belonged at the

When a bill of sale has been entered for any shares, thirty days shall be allowed for indorsing the certificate of registry, before any other bill of sale for the same shall be entered.

6. *The Registry Act, &c.*

3 & 4 Will. 4, c. 55.

Nature of the priority intended in this act.

Provision in case certificate be mislaid.

Bills of sale may be produced after entry at other ports than those to which vessels belong, and transfers indorsed on certificate of registry.

Previous notice to be given to officers at the port of registry.

time when the particulars of such former bill of sale or other instrument were entered in the book of registry, then unless thirty days shall have elapsed from the day on which such ship or vessel arrived at the port to which the same belonged; and in case the particulars of two or more such bills of sale or other instruments as aforesaid shall at any time have been entered in the book of registry of the said ship or vessel, the collector and controller shall not enter in the book of registry the particulars of any other bill of sale or other instrument as aforesaid, unless thirty days shall in like manner have elapsed from the day on which the particulars of the last of such bill of sale or other instrument were entered in the books of registry, or from the day on which the ship or vessel arrived at the port to which she belonged, in case of her absence as aforesaid; and in every case where there shall at any time happen to be two or more transfers by the same owner or owners of the same property in any ship or vessel entered in the book of registry as aforesaid, the collector and controller are hereby required to indorse upon the certificate of registry of such ship or vessel the particulars of that bill of sale or other instrument under which the person or persons claims or claim property who shall produce the certificate of registry for that purpose within thirty days next after the entry of his said bill of sale or other instrument in the book of registry as aforesaid, or within thirty days next after the return of the said ship or vessel to the port to which she belongs, in case of her absence at the time of such entry as aforesaid; and in case no person or persons shall produce the certificate of registry within either of the said spaces of thirty days, then it shall be lawful for the collector and controller, and they are hereby required, to indorse upon the certificate of registry the particulars of the bill of sale or other instrument to such person or persons as shall first produce the certificate of registry for that purpose, it being the true intent and meaning of this act that the several purchasers and mortgagees of such ship or vessel, share or shares thereof, when more than one appear to claim the same property, or to claim security on the same property, in the same rank and degree, shall have priority one over the other, not according to the respective times when the particulars of the bill of sale or other instrument by which such property was transferred to them were entered in the book of registry as aforesaid, but according to the time when the indorsement is made upon the certificate of registry as aforesaid: provided always, that if the certificate of registry shall be lost or mislaid, or shall be detained by any person whatever, so that the indorsement cannot in due time be made thereon, and proof thereof shall be made by the purchaser or mortgagee, or his known agent, to the satisfaction of the commissioners of his majesty's customs, it shall be lawful for the said commissioners to grant such further time as to them shall appear necessary for the recovery of the certificate of registry, or for the registry *de novo*, of the said ship or vessel under the provisions of this act, and thereupon the collector and controller shall make a memorandum in the book of registers of the further time so granted, and during such time no other bill of sale shall be entered for the transfer of the same ship or vessel, or the same share or shares thereof, or for giving the same security thereon."

Sect. 37. "If the certificate of registry of such ship or vessel shall be produced to the collector and controller of any port where she may then be, after any such bill of sale shall have been recorded at the port to which she belongs, together with such bill of sale, containing a notification of such record, signed by the collector and controller of such port as before directed, it shall be lawful for the collector and controller of such other port to indorse on such certificate of registry (being required so to do) the transfer mentioned in such bill of sale, and such collector and controller shall give notice thereof to the collector and controller of the port to which such ship or vessel belongs, who shall record the same in like manner as if they had made such indorsement themselves, but inserting the name of the port at which such indorsement was made: provided always, that the collector and controller of such other port shall first give notice to the collector and controller of the port to which such ship or vessel belongs of such requisition made to them

to indorse the certificate of registry, and the collector and controller of the port to which such ship or vessel belongs, shall thereupon send information to the collector and controller of such other port, whether any and what other bill or bills of sale have been recorded in the book of the registry of such ship or vessel; and the collector and controller of such other port having such information shall proceed in manner directed by this act in all respects to the indorsing of the certificate of registry as they would do if such port were the port to which such vessel belonged."

6. *The Registry Act, &c.*

3, & 4 Wil. 4, c. 55.

Sect. 38. "If it shall become necessary to register any ship or vessel *de novo*, and any share or shares of such ship or vessel shall have been sold since she was last registered, and the transfer of such share or shares shall not have been recorded and indorsed in manner hereinbefore directed, the bill of sale thereof shall be produced to the collector and controller of his majesty's customs, who are to make registry of such ship or vessel, otherwise such sale shall not be noticed in such registry *de novo*, except as hereinafter excepted: provided always, that upon the future production of such bill of sale, and of the existing certificate of registry, such transfer shall and may be recorded and indorsed as well after such registry *de novo* as before."

If upon registry *de novo* any bill of sale shall not have been recorded, the same shall then be produced.

Bill of sale previous to registry may be recorded after registry.

Sect. 39. "If upon any change of property in any ship or vessel the owner or owners shall desire to have the same registered *de novo*, although not required by this act, and the owner or proper number of owners shall attend at the custom house at the port to which such ship or vessel belongs for that purpose, it shall be lawful for the collector and controller of his majesty's customs at such port to make registry *de novo* of such ship or vessel at the same port, and to grant a certificate thereof, the several requisites hereinbefore in this act mentioned and directed being first duly observed and complied with."

Upon change of property, registry *de novo* may be granted if desired, although not required by law.

Sect. 40. "And whereas great inconvenience hath arisen from the registering officers being served with subpoenas requiring them to bring with them and produce, on trials in courts of law relative to the ownery of vessels, or otherwise, the oaths or declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom: and whereas it would tend much to the despatch of business if the attendance of such registering officers with the same upon such trials were dispensed with; be it therefore enacted, that the collector and controller of his majesty's customs at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination any oath or declaration sworn or made by any such owner or owners, proprietor or proprietors, and also any register or entry in any book or books of registry required by this act to be made or kept relative to any ship or vessel, and shall, upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies or an extract or extracts thereof respectively; and that the copy and copies of any such oath or declaration, register or entry, shall, upon being proved to be a true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any collector or controller, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals, if produced by any collector or collectors, controller or controllers, or other person or persons acting for them, could or might legally be admitted or received in evidence."

Copies of declarations, &c. and of extracts from books of registry admitted in evidence.

Sect. 41. "If the ship or vessel, or the share or shares of any owner thereof who may be out of the kingdom, shall be sold in his absence by his known agent or correspondent, under his directions either expressed or implied, and acting for his interest in that behalf, and such agent or correspondent who shall have executed a bill of sale to the purchaser of the whole of such ship or vessel, or of any share or shares thereof, shall not have received a legal power to execute the same, it shall be lawful for the commissioners of his majesty's customs, upon application made to them, and

Vessels or shares sold in the absence of owners without formal powers.

Commissioners

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

may permit record of such sales or registry *de novo* as the case may require; and in other cases where bills of sale cannot be produced.

Security being given to produce legal powers or abide future claims.

Transfers by way of mortgage.

Mortgagee not to be deemed an owner.

Transfers of ships for security of debts being registered, rights of mortgagee not affected by any act of bankruptcy of mortgagor, &c.

Governors of colonies, &c. may cause proceedings in suits to be stayed.

proof to their satisfaction of the fair dealings of the parties, to permit such transfer to be registered, if registry *de novo* be necessary, or to be recorded and indorsed, as the case may be, in manner directed by this act, as if such legal power had been produced; and also if it shall happen that any bill of sale cannot be produced, or if, by reason of distance of time, or the absence or death of parties concerned, it cannot be proved that a bill of sale for any share or shares in any ship or vessel had been executed, and registry *de novo*, of such ship or vessel, shall have become necessary, it shall be lawful for the commissioners of his majesty's customs, upon proof to their satisfaction of the fair dealings of the parties, to permit such ship or vessel to be registered *de novo* in like manner as if a bill of sale for the transfer of such share or shares had been produced: provided always, that in any of the cases herein mentioned good and sufficient security shall be given to produce a legal power or bill of sale within a reasonable time, or to abide the future claims of the absent owner, his heirs and successors, as the case may be; and at the future request of the party whose property has been so transferred, without the production of a bill of sale from him or from his lawful attorney, such bond shall be available for the protection of his interest, in addition to any powers or rights which he may have in law or equity against the ship or vessel, or against the parties concerned, until he shall have received full indemnity for any loss or injury sustained by him."

Sect. 42. "When any transfer of any ship or vessel, or of any share or shares thereof, shall be made only as a security for the payment of a debt or debts, either by way of mortgage, or of assignment to a trustee or trustees for the purpose of selling the same for the payment of any debt or debts, then and in every such case the collector and controller of the port where the ship or vessel is registered shall, in the entry in the book of registry, and also in the indorsement on the certificate of registry, in manner hereinbefore directed, state and express that such transfer was made only as a security for the payment of a debt or debts, or by way of mortgage, or to that effect; and the person or persons to whom such transfer shall be made, or any other person or persons claiming under him or them as a mortgagee or mortgagees, or a trustee or trustees only, shall not by reason thereof be deemed to be the owner or owners of such ship or vessel, share or shares thereof, nor shall the person or persons making such transfer be deemed by reason thereof to have ceased to be an owner or owners of such ship or vessel, any more than if no such transfer had been made, except so far as may be necessary for the purpose of rendering the ship or vessel, share or shares so transferred, available by sale or otherwise for the payment of the debt or debts for securing the payment of which such transfer shall have been made."

Sect. 43. "When any transfer of any ship or vessel, or of any share or shares thereof, shall have been made as a security for the payment of any debt or debts, either by way of mortgage or of assignment as aforesaid, and such transfer shall have been duly registered according to the provisions of this act, the right or interest of the mortgagee or other assignee as aforesaid shall not be in any manner affected by any act or acts of bankruptcy committed by such mortgagor or assignor, mortgagors or assignors, after the time when such mortgage or assignment shall have been so registered as aforesaid, notwithstanding such mortgagor or assignor, mortgagors or assignors, at the time he or they shall so become bankrupt as aforesaid, shall have in his or their possession, order, and disposition, and shall be the reputed owner or owners of the said ship or vessel, or the share or shares thereof, so by him or them mortgaged or assigned as aforesaid, but that such mortgage or assignment shall take place of and be preferred to any right, claim, or interest which may belong to the assignee or assignees of such bankrupt or bankrupts in such ship or vessel, share or shares thereof, any law or statute to the contrary thereof notwithstanding."

Sect. 44. "It shall and may be lawful for any governor, lieutenant-governor, or commander-in-chief of any of his majesty's colonies, plantations, islands, or territories, and they are hereby respectively authorized and required, if any suit, information, libel, or other prosecution or proceeding of

any nature or kind whatever shall have been commenced or shall hereafter be commenced in any court whatever in any of the said colonies, plantations, islands, or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant-governor, or commander-in-chief, to cause all proceedings thereon to be stayed, if he shall see just cause so to do, until his majesty's pleasure shall be known and certified to him by his majesty, by and with the advice of his majesty's privy council; and such governor, lieutenant-governor, or commander-in-chief is hereby required to transmit to one of his majesty's principal secretaries of state, to be laid before his majesty in council, an authenticated copy of the proceedings in every such case, together with his reasons for causing the same to be stayed, and such documents (properly verified) as he may judge necessary for the information of his majesty."

6. *The Registry Act, &c.*

3 & 4 Wil. 4, c. 55.

Sect. 45. "If any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, or falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person or persons shall for every such offence forfeit the sum of five hundred pounds."

Penalty of 500*l.* on persons making false declaration, or falsifying any document.

Sect. 46. "All the penalties and forfeitures inflicted and incurred by this act shall and may be sued for, prosecuted, recovered, and disposed of in such manner, and by such ways, means, and methods, as any penalties or forfeitures inflicted or which may be incurred for any offences committed against any law relating to the customs may now legally be sued for, prosecuted, recovered, and disposed of (a); and that the officer or officers concerned in seizures or prosecutions under this act shall be entitled to and receive the same share of the produce arising from such seizures as in the case of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty for any offence against this act as any officer or officers is or are now by any law or regulation entitled to upon prosecutions for pecuniary penalties (a)."

How penalties are to be recovered,

and officers' shares.

Sect. 47. "This act may be altered, varied, or repealed by any act or acts to be passed in this session of parliament."

Act may be altered this session.

By the 5 & 6 Wil. IV. c. 56, intituled "An Act to regulate the Admeasurement of the Tonnage and Burthen of the Merchant Shipping of the United Kingdom," [9th September 1835], reciting, "whereas by an act passed in the third and fourth years of the reign of his present majesty, for the registering of British vessels, certain rules are established for ascertaining the tonnage of ships as well on shore as afloat, and of vessels propelled by steam; and the account of such tonnage, whenever the same shall have been ascertained according to the rules therein prescribed (except in the case of ships admeasured afloat), it is thereby enacted shall be deemed the tonnage of such ships, and shall be repeated in every subsequent registry of such ships, unless any alteration shall have been made in their form and burthen, or unless it be discovered that the tonnage had been erroneously computed: and whereas it is considered that the capacity of a ship is the fairest standard by which to regulate its tonnage, that internal measurements will afford the most accurate and convenient method of ascertaining that capacity, and that the adoption of such a mode of admeasurement will tend to the interests of the ship builder and the owner, as well as to the proper collection of the dues which by law are payable on tonnage; and it is expedient to alter and amend the law in this respect:" it is therefore enacted, "that from and after the commencement of this act so much of the said recited act as establishes

5 & 6 Wil. 4, c. 56.

3 & 4 Wil. 4, c. 55.

Rules established by recited act for ascertaining tonnage repealed.

(a) Sec Vol. II. title "Excise and Customs."

6. *The Registry Act, &c.*

5 & 6 Wil. 4, c. 56.

The rule by which tonnage of vessels is to be ascertained.

rules for ascertaining the tonnage of ships shall be and the same is hereby repealed so far as respects the merchant shipping of the United Kingdom to be thereafter registered."

Sect. 2. "From and after the commencement of this act the tonnage of every ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say,) divide the length of the upper deck, between the afterpart of the stem and the forepart of the stern-post into six equal parts. Depths: at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the under side of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: divide each of those three depths into five equal parts, and measure the inside breadths at the following points; *videlicet*, at one fifth and at four fifths from the upper deck of the foremost and aftermost depths, and at two fifths and four fifths from the upper deck of the midship depth. Length: at half the midship depth measure the length of the vessel from the after-part of the stem to the forepart of the stern-post; then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths; add together the upper and lower breadths at the foremost division, three times the upper breadth, and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk-head; multiplying these three measurements together, and dividing the product by 92.4, the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake."

Tonnage, when ascertained, to be entered on register.

Sect. 3. "The tonnage or burthen of every ship belonging to the United Kingdom, ascertained in the manner hereinbefore directed, shall, in respect of any such ship which shall be registered after the commencement of this act (except as hereinafter excepted), be inserted in the certificate of the registry thereof, and be taken and deemed to be the tonnage or burthen thereof for all the purposes of the said recited act."

Mode of ascertaining tonnage of steam vessels.

Sect. 4. Provided always, "that in each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

Length and cubical contents of engine room to be set forth in description of steam vessel.

Sect. 5. Provided always, "that the tonnage due to the cubical contents of the engine room, and also the length of the engine room shall be set forth in the certificate of the registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry *de novo* within the meaning of the said act for the registering of ships or vessels.

Sect. 6. "For the purpose of ascertaining the tonnage of all such ships, whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established; (that is to say,) measure, first, the length on the upper deck between the afterpart of the stem and the forepart of the stern-post; secondly, the inside breadth on the underside of the upper deck, at the middle point of the length; and, thirdly, the depth from the under side of the upper deck down the pump-well to the skin; multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ship."

6. *The Registry Act, &c.*

5 & 6 Wil. 4, c. 56.

For ascertaining tonnage of vessels when laden.

Sect. 7. "The true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel, prior to her being registered."

Amount of register tonnage to be carved on main beam.

Sect. 8. Provided always, "that nothing herein contained shall extend to alter the present measure of tonnage of any ship or vessel which shall have been registered prior to the commencement of this act, unless in cases where the owners of any such ships shall require to have their tonnage established according to the rule hereinbefore provided, or unless there shall be occasion to have any such ship admeasured again on account of any alteration which shall have been made in the form and burthen of the same, in which cases only such ships shall be re-admeasured according to the said rule and their tonnage registered accordingly."

Not to alter tonnage of vessels already registered.

Sect. 9. "This act shall commence and take effect upon and from the 1st day of January, 1836."

Commencement of act.

Sect. 10. "This act may be altered, amended, or repealed by any act or acts to be passed in the present session of parliament."

Act may be altered this session.

Middlesex, } Be it remembered, that on the day of , in the year of
to wit. } our Lord , at , in the county of , A. W.,
of , came before me, T. R., Esq., one of his majesty's justices of the peace
for the said county of , and residing near to the place where the detainer
and refusal hereafter mentioned were made, and informed me, the said justice,
upon oath, that he, the said A. W., together with D. W., on the day of
 , instant, were, and still are, owners of a certain vessel called "*The Reso-*
lution," now in the port of London, and that P. S., of , then had in his
custody and possession, the certificate of the registry of the said vessel, and that
they, the said A. W. and D. W., then were and still are desirous of transfer-
ring of their property in the said vessel, and of procuring an indorsement of such
transfer, to be made on the said certificate by C. C., being the collector, and
C. A., being the controller of the port of London, being the port where the said
vessel is registered, and they being the proper officers of the customs in that behalf,
for which purpose occasion then required and still requires, that the said certi-
ficate should be delivered up to the said collector and controller; and that the
said A. W. did on the said day of , instant, at , in the county
aforesaid, for and on behalf of himself, and the said D. W., so being such owner
of the said vessel as aforesaid, demand and require of the said P. S., to deliver
up to them the said collector and controller, they then and there being the proper
officers of the customs in that behalf, the said certificate of the registry of the
said vessel, and which he then had in his custody as aforesaid, for the purpose of
the said collector and controller indorsing thereon the said transfer of the said
A. W. and D. W.'s property in the said vessel; but the said P. S., then and
there wilfully and wrongfully detained and refused to deliver up the said certi-
ficate to the said collector and controller, for the purpose aforesaid, on the occa-
sion required as aforesaid, or for any other purpose whatever; and the said
P. S. still wilfully retains the said certificate, contrary to the form of the statute
in such case made and provided: and whereby the said P. S. hath according to
the said statutes become liable to pay the sum of 100l.; and hereupon, &c. [Con-
clude as usual; see the Form, title "*Confiscation*," Vol. I.]

Information on 3
& 4 Wil. 4, c. 55,
s. 27, for detain-
ing a certificate of
registry.

VII. Regulations as to Passengers.

Passengers.	By the 6 Geo. IV. c. 105, the laws for regulating vessels carrying passengers from the United Kingdom to foreign parts out of Europe, and not within the Straits of Gibraltar, are repealed, and by the 6 Geo. IV. c. 116, other provisions are made in lieu thereof.
Aliens.	As to alien passengers, see the 6 Wil. IV. c. 11. title "Aliens," Vol. I.
4 Geo. 4, c. 88.	The 4 Geo. IV. c. 88, s. 1, enacts, that "it shall not be lawful for the
No captain of vessel under 200 tons to take more than twenty passengers, unless licensed by collector of customs at the port.	master or commander, or person having the charge or command of any vessel employed in the conveyance of passengers between Great Britain and Ireland, being of any burthen less than two hundred tons, to have or take on board, or to carry or convey any greater number of persons than twenty as passengers from any port in Great Britain to any port in Ireland, or from any port in Ireland to any port in Great Britain, unless a licence for the conveyance of passengers shall have been previously granted to the owner or owners, or master or commander of such ship or vessel, under the hand of the collector, controller, or other chief officer of the customs, at the port from which such vessel shall sail from Great Britain to Ireland, and from Ireland to Great Britain respectively; and it shall be lawful for every such collector, controller, or other chief officer of the customs, to grant and sign such licence without fee or reward, in such form and under such regulations as shall be directed by the commissioners of customs: provided always, that no such licence shall be granted by such collector, controller, or other chief officer, except upon such certificate as shall be required by the commissioners of the customs, that such vessel is sea-worthy and properly formed in all respects; and every such licence shall remain in force for the space of one year from the date thereof, and no longer (a)."
No fee for licence.	
Conditions.	
Proportion of passengers to tonnage, including the crew.	Sect. 2. "It shall not be lawful for any master or other person having or taking the charge or command of any ship or vessel so licensed for the conveyance of passengers, which shall clear out from any port or place in the United Kingdom of Great Britain and Ireland, to have on board, at or after being cleared out, at any one time, or to convey, carry, or transport from any port or place in Great Britain or Ireland respectively, in any such ship or vessel, a greater number of persons (exclusive of the ordinary crew of such ship or vessel) than in the proportion of five adult persons, or of ten children under fourteen years of age, or of fifteen children under seven years of age, for every four tons of the burthen of such ship or vessel; and every such ship or vessel shall be deemed and taken to be of such tonnage or burthen as is or may be described and set forth in the respective certificate of the registry of each and every such ship or vessel, granted in pursuance of the several acts in force in Great Britain and Ireland respectively, relating to such certificates; and if any such ship or vessel shall be partly laden with goods, wares, or merchandize, or horses or carriages, then it shall not be lawful for the master or other person having the charge or command of such ship or vessel, to receive or take on board a greater number of persons (exclusive of the ordinary crew) than in the proportion of five adult persons, or of ten children under fourteen years of age, or of fifteen children under seven years of age, for every four tons of that part of such ship or vessel which shall remain unladen; and such goods, wares, or merchandize with which such ship or vessel may be partly laden, shall, at the sight and under the direction of the collector or controller or other officer of the customs, at the port or place where such goods, wares, or merchandize shall be taken on board, be stowed and disposed of in such manner as to leave good, sufficient, and wholesome accommodation for the proportion of persons hereby allowed in such case to be received on board."
Tonnage according to certificate of registry.	
If ship partly laden with goods, &c. tonnage for passengers to be exclusive of the part laden.	

(a) The 4 & 5 Wil. IV. c. 89, s. 28, upwards, shall be deemed a vessel of 200 tons, at least, for the purposes of the of the register tonnage of 140 tons or above statute of 4 Geo. IV.

Sect. 3. "If any master or any person having the charge or command of any such ship or vessel shall take on board any passenger or passengers, or if the owner or owners of any such ship or vessel shall engage to take on board any passenger or passengers beyond the number of twenty as aforesaid, without such licence being previously obtained by such master, owner, or other person as by this act is required, every such master or other person, or owner or owners, shall for every offence forfeit the sum of 50*l.*; and if any master or other person having or taking the charge or command of any such ship or vessel, shall take on board, or if such master or other person, or the owner or owners of any such ship or vessel, shall engage to take on board a greater number of persons than in the proportion allowed by this act, such master or other person as aforesaid shall forfeit and pay the sum of 5*l.* for each and every or any such person, exceeding in number the proportion hereinbefore limited; and every such ship or vessel so having on board, or conveying or carrying any greater number than twenty persons without such licence as aforesaid first had and obtained, shall and may be seized and detained by the collector, controller, surveyor, or officer of the customs, until such penalty of 50*l.* shall be satisfied and paid."

4 Geo. 4, c. 88.

Master or owners taking passengers without licence.

Penalty, 50*l.*

Taking more passengers than allowed.

Penalty.

In what case ship detained till penalty of 50*l.* paid.

Sect. 4. "It shall not in any case be lawful for any master or other person taking or having the charge or command of any trading or coasting ship or vessel, not being wholly employed in the conveyance of passengers, and not licensed to carry any passengers pursuant to this act, whether such ship or vessel shall be laden in part or in the whole with goods and merchandize, not being the baggage of or belonging to any passengers in such ship or vessel, or shall be employed in the carriage or conveyance of cattle or pigs, or shall be in ballast, and which shall sail from any port or place in Great Britain to any port or place in Ireland, or from any port or place in Ireland to any port or place in Great Britain, to have or take on board a greater number of persons than ten (exclusive of the ordinary crew of such ship or vessel), if such ship or vessel shall be of the burthen of one hundred tons or under, nor a greater number of persons than twenty (exclusive of the ordinary crew), if such ship or vessel shall be of a burthen greater than one hundred tons, and not exceeding the burthen of two hundred tons; and if more persons shall be found or taken on board any such ship or vessel than in the proportion herein allowed, every such master or other person as aforesaid shall forfeit and pay the sum of 5*l.* for every person so taken on board beyond such proportion."

Merchant vessels, &c. of certain tonnage, carrying more persons than in proportion.

Penalty.

Sect. 5. "An abstract of this act shall be prepared and printed by and under the direction of the commissioners of his majesty's customs, and a printed copy of such abstract shall be hung up in the custom house of every port of the United Kingdom, and a printed copy of such abstract, and also a copy of the licence granted to the captain or owners of such ship or vessel, and a notice or statement of the number of persons allowed to be carried and conveyed in such vessel, shall be hung up and affixed in some conspicuous place on the deck and in the cabin of every ship or vessel carrying passengers under the regulations of this act; and the master or other person having or taking the charge or command of such ship or vessel shall cause the said copies to be kept and renewed, so that the same may be at all times accessible to every person on board such ship or vessel, upon pain that every such master or other person having or taking the charge or command of every such ship or vessel, in which such abstract, licence, and notice, or any of them, shall not be hung up or affixed, and shall not be renewed and remain as aforesaid, shall for every such offence forfeit the sum of 10*l.*"

Abstract of act hung up at custom-house, and on board every vessel.

Penalty, 10*l.*

Sect. 6. "Nothing in this act contained shall extend or be deemed or construed to extend to ships or vessels in the service of his majesty, or of his majesty's postmaster-general, or of the commissioners of customs and excise, or of the East-India company; nor to any ship or vessel of the burthen of two hundred tons or upwards, nor to any ship or vessel employed in carrying troops."

Not to extend to vessels in the service of government, &c.

Sect. 7. "All penalties and forfeitures for any offence against this act shall and may be recovered at any time within three calendar months

Penalties, how recovered and applied.

7. *Regulations
as to Passen-
gers.*

4 Geo. 4, c. 88.

Distress.

Imprisonment.

Half to the pro-
secutor, and half
to the king.

Appeal to quarter
sessions.

Notice.

Security for
costs.

Determination of
justices final.

Distress.

after the commission of such offence, in a summary way, by the order and adjudication of any one justice of the peace for the county or place in which the port shall be situate, from which any such ship or vessel shall depart, or at which any such ship or vessel shall arrive, on complaint to such justice for that purpose exhibited; and such penalty shall be levied, as well as the costs of such proceedings, on nonpayment, by distress and sale of the goods and chattels of the offender or offenders, or person or persons liable to pay the same, by warrant under the hand and seal of such justice; and such justice is hereby authorized and required to summon before him any witness or witnesses, and to examine such witness or witnesses upon oath, of and concerning such offences, and to hear and determine the same; and the overplus (if any) of the money so levied or recovered, after discharging the penalty or forfeiture for which such warrant shall be issued, and the costs and expenses of recovering and levying the same, shall be returned upon demand to the owner or owners of the goods or chattels so seized or distrained; and in case such penalty or forfeiture shall not be forthwith paid upon conviction, then it shall be lawful for such justice to order the offender or offenders so convicted to be detained and kept in safe custody, until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justice, for his or their appearance before such justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justice is hereby empowered to take by way of recognizance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such justice, or any other justice of the peace for such county or place as aforesaid, and he is hereby authorized and required, by warrant under his hand and seal, to cause such offender or offenders to be committed to the gaol of such county or place, there to remain, without bail or mainprize, for any term not exceeding two calendar months, unless such penalty or forfeiture, and all reasonable charges, shall be sooner paid and satisfied; and one moiety of every such penalty or forfeiture, when so levied, shall be paid to the person or persons who shall sue or prosecute for the same, for his or her own use and benefit, and the other moiety thereof to the use of his majesty, his heirs, and successors."

Sect. 8. "If any person shall think himself or herself aggrieved by any conviction in pursuance of this act, it shall be lawful for such person to appeal to the justices of the peace at the next general quarter sessions of the peace to be holden for the county or place, such appellant (if there be sufficient time after the cause of such complaint shall have arisen) first giving or causing to be given ten days' notice at least in writing of his or her intention of bringing such appeal, and of the matter thereof, to the justice whose conviction shall be so appealed against, and within seven days next after such notice entering into a recognizance before the said justice or some other justice of the peace for the county or place, with two sufficient sureties conditioned to try such appeal, and to abide the order of such justices at sessions thereon, and to pay such costs as shall be awarded by the justices at such quarter sessions; and for want of sufficient time for giving such notice previous to the quarter sessions next after the cause of such complaint shall have happened, then such appeal, after such notice and under such recognizance, may be made at the second general quarter sessions of the peace to be holden for such county or place; and the justices at such first or second sessions, upon due proof of such notice having been given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the cause and matter of such appeal in a summary way, and shall award such costs to the parties appealing or appealed against, as they the said justices shall think proper, and the determination of such justices at such quarter sessions shall be final, binding, and conclusive to all intents and purposes; and the said justices at such sessions may also, by their warrant or order, cause such costs so awarded by distress and sale to be levied of the goods

and chattels of the person or persons who shall refuse or neglect to pay the same; and for want of sufficient distress may commit such person or persons to the common gaol or house of correction for the said county, there to remain for any time not exceeding two calendar months, or until payment of such costs."

Sect. 9. "No proceedings against, nor any conviction of any offender or offenders against this act, or by or before any justice of the peace, shall be quashed for want of form, nor be removed or removable by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Dublin; and where any distress shall be made for any sum or sums of money to be levied by virtue of this act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action on the case; but no plaintiff or plaintiffs shall recover in any action for such irregularity as aforesaid, if tender of sufficient amends shall have been made by or on behalf of the party distraining, before such action commenced."

Sect. 10. "Any action or suit which shall be brought or commenced against any person or persons for any thing done in pursuance and by the authority of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards, and shall be brought in the county, city, or place, where the cause of action shall arise, and not elsewhere; and that the defendant or defendants in such action or suit to be brought may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if it shall appear to be so done, or if any such action or suit shall be brought after the time before limited for bringing the same, or shall be brought in any county, city, or place other than as aforesaid, then and in every such case the jury shall find for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited, or shall discontinue his, her, or their action, or if a verdict shall pass against the plaintiff, or if upon demurrer judgment shall be given against such plaintiff or plaintiffs, the defendant or defendants shall and may recover double costs, and have the like remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law."

State the offence thus:] *That C. D., late of, &c., within the space of three calendar months now last past, to wit, on, &c., at, &c., being then and there the [master, and a person having the charge and command], of a certain ship and vessel called , then and there employed in the conveyance of passengers between Great Britain and Ireland, being of less than two hundred tons' burthen, to wit, of the burthen of one hundred tons, did unlawfully have and take on board, carry and convey, a greater number of passengers than twenty, to wit [fifty] persons, as passengers, in and by the said ship and vessel, from a certain port in England, called , to a certain port in Ireland, called ; no licence for the conveyance of passengers having been then previously granted to the owner, or master, or commander of the said ship and vessel, according to the directions of the statute in that behalf made and provided; contrary to the form of the statute in such case made and provided. Whereby, &c. [Conclude as usual.]*

A conviction for this offence may be readily framed from this and the general form of conviction; see "**Conviction**," Vol. I.

7. *Regulations as to Passengers.*

4 Geo. 4, c. 88.
Imprisonment.

Proceedings not to be quashed for want of form.

Tender of amends.

Limitation of actions.

General issue.

Double costs.

Information, &c., on 4 Geo. 4, c. 88, s. 1, against master of ship under 200 tons, for carrying more than 20 passengers between Great Britain and Ireland, without licence.

VIII. The Pilot Act, and Regulations as to Pilots.

6 Geo. 4, c. 125.

The 6 Geo. IV. c. 125, is the latest act respecting pilots and pilotage, and by the first section of that act, the 52 Geo. III. c. 39, s. 2, 52 Geo. III. c. 39, 55 Geo. III. c. 87, and all provisions in other acts relative to pilots and pilotage, are repealed.

The corporation of Trinity House of Deptford Strond to license pilots to act within certain limits.

Sect. 2. "From and after the passing of this act, it shall be lawful for the said corporation of Trinity House of Deptford Strond, and they are hereby required, after due examination, to appoint and license, under their common seal, fit and competent persons duly skilled to act as pilots, for the purpose of conducting all ships and vessels sailing, navigating, and passing as well up and down or upon the rivers of Thames and Medway, and all and every the several channels, creeks, and docks thereof or therein, or leading or adjoining thereto, between Orfordness and London-bridge, as also from London-bridge to the Downs, and from the Downs westward as far as the Isle of Wight, and in the English channel, from the Isle of Wight up to London-bridge; and all ships and vessels sailing, navigating, and passing as aforesaid (save and except as hereinafter provided), shall be conducted and piloted within the limits aforesaid, by such pilots so to be appointed and licensed, and by no other pilots or persons whomsoever: provided always, that it shall be lawful for all pilots heretofore licensed by the said corporation of Trinity House of Deptford Strond, until the 31st day of January next after the passing of this act, and whilst their licences shall respectively continue in force, but no longer, to pilot or conduct any ships or vessels within such limits as such pilots might lawfully have conducted and piloted the same immediately before the passing of this act; and the licences so heretofore granted to such pilots respectively as aforesaid, shall, unless revoked or suspended, as hereinafter mentioned, continue in force notwithstanding this act, until the said 31st day of January, so that such pilots respectively do in all things conform themselves to the provisions of this act, and the bye-laws, rules, orders, and regulations hereinafter directed to remain in force, or to be established under the same."

Pilots heretofore appointed may act until the 31st January next.

No person shall be licensed by the corporation, except as herein specified, nor take charge of a ship drawing more than fourteen feet water, until he shall have acted three years, and have been then re-examined and again approved.

Sect. 3. "No person shall be licensed by the said corporation of Trinity House of Deptford Strond as a pilot, who shall not have served as mate for three years on board of, or who shall not have been for one year in the actual command of a square-rigged vessel of not less than eighty tons' register tonnage, as to licences for the North Channel upwards, and not less than one hundred and fifty tons' register tonnage, as to licences for the North Channel, Queen's Channel, South Channel, or other channels downwards, or who shall not have been employed in the pilotage, or buoyage service of the said corporation of Trinity House for seven years, or who shall not have served an apprenticeship of five years to some pilot vessel licensed under the said act passed in the fifty-second year of the reign of his late majesty, or under this act; and that no person so licensed shall take charge as a pilot of any ship or vessel drawing more than fourteen feet water in the rivers Thames or Medway, or any of the channels leading thereto or therefrom, until such person shall have acted as a licensed pilot for three years, and shall have been, after such three years, on re-examination, approved of in that behalf by the said corporation of Trinity House, on pain of forfeiting 10*l.* for every such offence, as well by the person acting as such pilot, as also by the master or other person having the command of such ship or vessel, who shall permit any such person to take charge as a pilot of the same, contrary to the provision aforesaid."

Penalty as well by the person acting as by the person in command permitting him.

Pilots to pay annually 3*l.* 3*s.*, and 6*d.* in the pound on their earnings;

Sect. 4. "Each and every pilot already licensed by the said corporation of Trinity House of Deptford Strond, or to be licensed by the said corporation under the authority of this act (except only such pilots as have been or shall be so licensed by the said corporation, upon their receiving certificates of examination by any sub-commissioners of pilotage), as in the said act of the fifty-second year of the reign of his late majesty King

George III., and hereinafter directed, in lieu and satisfaction of and for all the ancient and accustomed duties heretofore payable by such pilots to the said corporation, shall from time to time and at all times hereafter pay or cause to be paid to the said corporation, or to such person or persons as they shall appoint to receive the same on their behalf, the sum of three guineas, in the month of January yearly; and that each and every pilot so licensed, or to be licensed by the said corporation as aforesaid, as well upon receiving such certificates as aforesaid, as otherwise, howsoever, shall also from time to time and at all times, from and after the first day of July next, pay or cause to be paid to the said corporation, or to such person or persons and at such places and times as the said corporation shall in that behalf appoint, a certain poundage of 6*d.* in the pound upon all the pilotage earned by each and every of such pilots, from the said first day of July inclusive, on pain of forfeiture, for default of any of the payments aforesaid, or for any concealment or fraud therein or relating thereto, double the amount payable, and of being suspended or dismissed from acting as a pilot, at the discretion of the said corporation; which said payments, hereby directed to be made as aforesaid, shall be carried to and applied to the purposes of the pilots' fund of the said corporation hereinafter mentioned."

Sect. 5. "It shall be lawful for the said corporation of Trinity House of Deptford Strond, and they are hereby required to appoint from time to time (as often and for such periods as they in their discretion shall think fit) proper and competent persons at such ports or places in England as they may think requisite (except within the liberty of the Cinque Ports, and all such other ports and places within or for which particular provision shall have been made by any act or acts of parliament, or by any charter or charters for the appointment of pilots), not to exceed five nor less than three persons at each port or place for which any such appointment shall be made, which persons so to be appointed shall be called sub-commissioners of pilotage, and shall take the oath in the schedule hereunto annexed, marked (C.), for the faithful discharge of their duty; and such persons so to be appointed shall examine, and they are hereby authorized (so long as their respective deputations or appointments shall not be revoked or superseded by the appointment of other persons in their places) to examine into the qualification of persons to act as pilots for such respective ports and places, and the adjoining coasts specified in their respective deputations or appointments as aforesaid; and it shall be lawful for the said corporation, upon their receiving a satisfactory certificate under the hands of any three of the persons so to be appointed, where the whole number at any port or place shall consist of four or five, and of any two where the whole number shall consist of three, that the person examined as aforesaid is duly qualified to act for such port or ports, and the adjoining coasts, to give a licence to such person to act as a pilot within the particular limits (describing the same) for which he shall have passed such examination."

Sect. 6. "It shall be lawful for the corporations of the Trinity Houses of the ports of Hull and Newcastle respectively, to appoint sub-commissioners of pilotage to examine pilots, and give licences for them to pilot ships and vessels into or out of any ports, harbours, or places within the limits of their respective jurisdictions, any thing in this act contained to the contrary notwithstanding: provided always, that such sub-commissioners as have been already appointed either by the said corporation of Trinity House of Deptford Strond, or by the said corporations of the Trinity Houses of the ports of Hull and Newcastle respectively, under the authority of any act or acts of parliament heretofore passed, shall continue to act in the same manner as if they were appointed under this act."

Sect. 7. "When and as soon as the said corporation of Trinity House of Deptford Strond shall have licensed pilots for any particular port or ports, and the respective coasts near the same as aforesaid, they shall cause notice of such licences to be published by fixing such notice in writing at the Trinity House, and at the Custom House in London, and also at the respective custom houses of the ports for which, and for the coasts near the same,

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

To be applied to the purpose of the pilots' fund.

The corporation of Trinity House shall appoint sub-commissioners to examine pilots at the requisite ports, and on their certificate of qualification may grant licences.

The Trinity Houses of Hull and Newcastle may appoint sub-commissioners to examine pilots, &c. within their jurisdictions. Sub-commissioners already appointed shall continue to act.

Notice of appointment of pilots by the corporation of Trinity House of Deptford Strond, to be fixed up at the Trinity House,

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

&c., after which
no other pilot or
person shall act.

Corporation of
Trinity House
shall establish
rates for pilotage
performed by pi-
lots licensed on
certificates.

Of which rates,
tables shall be
hung up at the
custom-houses of
the respective
ports, and no
greater or less
rates shall be re-
ceived or paid.

Majority of Pilots,
or any ship
owner, being dis-
satisfied with the
rates, may appeal
to privy council.

Licences to be
granted for one
year, and renew-
able.

such licences shall be granted, and shall also afterwards cause such notice to be published in the London Gazette, and in one or more of the newspapers circulated in that part of the country where the ports shall respectively be situated, which publication in the London Gazette shall be a good and sufficient evidence of such notice having been given; and from and after a time or times to be limited in the said notice, which shall not in any case, or in relation to any ships or vessels whatever, be less than six weeks from the publication thereof as aforesaid, and shall be proportionably more at the discretion of the said corporation, in relation to ships and vessels engaged in foreign voyages at the time of such publication, all ships and vessels sailing, navigating, or passing into or out of the said respective ports, or upon the coasts thereof (save and except as hereinafter mentioned) shall be conducted and piloted by such pilots only as shall be so licensed as aforesaid, and by no other pilots or persons whomsoever."

Sect. 8. "It shall be lawful for the said corporation of Trinity House of Deptford Strond, and they are hereby authorized and required to establish, vary, and alter, from time to time, as circumstances shall render the same necessary, rates of pilotage, in relation to all pilotage performed in any river, port, or place, or upon any coast whatever, by any pilot or pilots already licensed, or who shall be licensed by the said corporation upon their receiving certificates of examination from sub-commissioners of pilotage as aforesaid, which rates shall be regulated by and proportioned as well to the size and draught of water of the vessels, as to the distance piloted, the detention and responsibility of the pilot, and such other circumstances as the said corporation may think fit to take into consideration in fixing and establishing such rates; of which establishment or alteration of rates of pilotage notice shall be given by hanging up printed tables thereof, corrected from time to time, as variations therein shall be made at the several custom houses at the ports to which the said rates shall apply; and no greater or less rates, or other reward or emolument for such pilotage, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as by the person paying or offering such greater or less rates, reward, or emolument: provided that ships, returning by distress of weather, contrary winds, or on account of accident, into ports, in the districts of the Isle of Wight, Plymouth and Falmouth, shall be subject to pay one-half of the common pilotage in the said ports."

Sect. 9. "If the major part in number of the pilots who shall be licensed by the said corporation of Trinity House of Deptford Strond, for any particular port or place in consequence of their receiving certificates of examination as aforesaid, shall be dissatisfied with the rates so established or altered for such port or place; or in case any owner of any ship or vessel interested in any such rates, shall be dissatisfied therewith, it shall be lawful for such parties respectively to appeal to his majesty, his heirs and successors, in his or their most honourable privy council, and for any committee of such privy council calling to their assistance any such persons as they may think fit, to hear and determine the matter of such appeal or appeals, and to settle, alter, and regulate such rates as to them shall appear to be expedient, in case the matter of such appeal shall, in the discretion of the said privy council, or committee thereof, appear to require the making of any order therein.

Sect. 10. "All and every the licences to be granted under the authority of this act, by the said corporation of Trinity House of Deptford Strond, shall be granted in the first instance up to and until the 31st day of January next ensuing the date thereof, and no longer; and that the same licences, and also all and every the licences heretofore granted by the said corporation of Trinity House of Deptford Strond, and which shall be in force at the time of the passing of this act, shall and may be renewed and confirmed from year to year, up to and until the 31st day of January in every year, and no longer, at the discretion of the said corporation, such renewal and confirmation to be by indorsement on such licences respectively,

signed by the secretary to the said corporation for the time being, or by such other person or persons as shall or may be thereunto authorized by the said corporation."

Sect. 11. "All persons licensed to act as pilots, or in pilot vessels, by the said corporation of Trinity House of Deptford Strond, by virtue of this Act, shall from time to time and at all times hereafter be subject to the regulations and government of the said corporation, who are hereby authorized and empowered, as well for ensuring the good conduct and constant attendance of such pilots upon their duty, as for enforcing the general purposes of this act, from time to time to make and frame all such bye-laws, rules, orders, regulations, and ordinances as they shall think fit, therein specifying and directing also what annual or other sums shall be paid by any such pilots to the sub-commissioners of pilotage, for the examination of such pilots, and for granting and renewing or confirming their licences from time to time; and it shall be lawful for the said corporation respectively to annex such reasonable penalties and forfeitures for the breach of such bye-laws, rules, orders, regulations, and ordinances when made, as to them shall seem expedient in that behalf; and from time to time to annul, alter, and amend all or any of the existing bye-laws, rules, orders, regulations, and ordinances, and to make such other and new bye-laws, rules, orders, regulations, and ordinances as they shall think proper, so as such bye-laws, rules, orders, regulations, and ordinances be made conformable to the true intent and meaning of this act, and shall not be repugnant to the laws of this realm: provided always, that no bye-laws, rules, orders, regulations or ordinances hereafter to be made by the said corporation, shall have force or effect before they shall have been examined, sanctioned, and approved by the chief justice of his majesty's court of King's Bench, or by the chief justice of his majesty's court of Common Pleas, the sanction and approbation of either of which chief justices shall be verified under his hand and seal; and all and every such bye-laws, rules, orders, regulations, and ordinances, when so made and confirmed as aforesaid, shall be observed and kept and put in execution, and have the same force and effect and operation, to all intents and purposes, as if the same were respectively enacted by this act."

Sect. 12. "And in order that all such bye-laws, rules, orders, regulations, and ordinances may be previously examined by the parties interested therein, be it further enacted, that copies of all such proposed bye-laws, rules, orders, regulations and ordinances shall be transmitted to his majesty's privy council, and to the commissioners of customs in London, three calendar months before the same shall be submitted to such chief justice as aforesaid; and the commissioners of the customs are hereby required, upon the receipt of such copy, to cause the same to be printed and hung up, as soon as the same can be done, in the several custom houses of the principal ports in Great Britain, there to be open to the inspection of all persons interested therein at all seasonable times; and notice shall be given in the Gazette of such proposed bye-laws being so hung up for inspection as aforesaid."

Sect. 13. "All such bye-laws, rules, orders, regulations, and ordinances as shall be so made and confirmed as aforesaid, shall be printed, and shall be hung up in some public or conspicuous place in the several custom houses of the ports of England, within the limits for which the pilots respectively shall be licensed, and also at the Trinity House in London."

Sect. 14. "From and after the passing of this act, it shall and may be lawful for the lord warden of the Cinque Ports and constable of Dover Castle, or his lieutenant for the time being, and they are hereby required to appoint and license fit and competent persons duly skilled as pilots, for the purpose of conducting all ships and vessels sailing, navigating, and passing from or by Dungeness, up the rivers Thames and Medway to London bridge and Rochester bridge, and all and every the several channels, creeks, and docks of the same, and from the south buoy of the Brake to the westward, as far as the west end of the Owers; and all ships and vessels sailing, navigating, and passing as aforesaid (save and except as hereinafter provided), shall be conducted and piloted within the limits aforesaid, by such pilots so

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Corporation of Trinity House may make bye-laws and annex penalties for breach of them.

Bye-laws to be sanctioned by the chief justice of the King's Bench or Common Pleas.

Proposed bye-laws to be previously transmitted to the privy council and to the commissioners of customs, the latter of whom shall cause printed copies to be hung up at the custom houses.

Bye-laws confirmed to be hung up in the custom houses and the Trinity House.

The lord warden of the Cinque Ports to license pilots to act within certain limits.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Existing licences to continue in force.

No person shall take charge of any ship as a Cinque-Port pilot, till he has been examined and admitted.

Penalty.

Nor of ships drawing more than 11 feet 6 inches, until he shall have been licensed and have acted three years; 14 feet, five years; and 17 feet, seven years.

Master and wardens of the fellowship appointed to examine pilots shall take the oath in schedule marked (B.)

A number of Cinque-Port pilots shall constantly ply at sea to take charge of ships coming from the westward; and upon signals of fleets, all pilots shall prepare to go off.

appointed and licensed, and by no other pilots or persons whomsoever: provided always, that it shall be lawful, after the passing of this act, for any pilot or pilots heretofore licensed by the said lord warden and constable for the time being, or his lieutenant for the time being, to pilot or conduct any ship or vessel within such limits as such pilot or pilots might lawfully have conducted and piloted the same immediately before the passing of this act; and the licences so heretofore granted to such pilots as aforesaid shall continue in force notwithstanding this act, so that such pilots do in all things conform themselves to the provisions of this act, and the rules and regulations hereinafter directed to remain in force or be established under the same."

Sect. 15. "No person shall, from and after the passing of this act, take charge of any ship or vessel, as a pilot belonging to the society or fellowship of pilots of Dover, Deal, and the Isle of Thanet, commonly called Cinque-Port pilots, before he shall be examined by the master and two wardens, or by four wardens of the said society or fellowship for the time being, touching his abilities, and shall be approved and admitted into the society or fellowship of the Trinity House of Dover, Deal, and the Isle of Thanet, by the lord warden of the Cinque Ports, and constable of Dover Castle for the time being, or his lieutenant for the time being; and if any person shall presume to act as a pilot belonging to the said society or fellowship, without having been so examined, approved, and admitted as aforesaid, every such person shall for the first offence forfeit 10*l.*, for the second 20*l.*, and for every other offence 40*l.*"

Sect. 16. "No person belonging to the said society or fellowship of pilots of Dover, Deal, and the Isle of Thanet, commonly called Cinque-Port pilots, shall, from and after the passing of this act, be allowed to take charge as a pilot of any ship or vessel drawing more than eleven feet six inches water, until he shall have been licensed and acted as a pilot for three years; or of any ship or vessel drawing more than fourteen feet water, until he shall have been licensed and acted as a pilot for two years more, making five years; or of any ship or vessel drawing more than seventeen feet water, until he shall have been licensed and acted as a pilot two years more, making seven years in the whole; and at the expiration of such period of seven years, such pilot shall be again examined as to his fitness and competency, and if he shall be approved of and licensed on such examination, shall be authorized and allowed and entitled to take charge of any ships or vessels of any draught of water."

Sect. 17. "The master and such wardens of the said society or fellowship of pilots of the Trinity House of Dover, Deal, and the Isle of Thanet, as shall be appointed from time to time to examine into the skill and ability of any person on his being first admitted as a pilot into the said society or fellowship, or after he shall have been licensed and served for seven years, shall take the oath marked (B.) in the schedule hereunto annexed, to be administered unto him or them respectively by the registrar of the court of Loadmanage, who is hereby authorized to administer such oath."

Sect. 18. "A proper and sufficient number of pilots of the Cinque Ports, not less than eighteen at any one time, and in succession, from time to time, without intermission or any unnecessary delay, shall, at all seasonable times, by day and night, constantly ply at sea, or be afloat between the South Foreland and Dungeness, to take charge of ships and vessels coming from the westward; and such pilots shall not allow any ship or vessel, having a signal for a pilot flying, to pass without attempting to board her; and that upon proper signals being made at and from signal-houses now erected, or which may be erected, on commanding situations, near to Dover, for that purpose, giving notice of the approach of any fleet of ships or vessels coming from the westward, all Cinque-Port pilots not on duty at the time shall, according to such rules and regulations as to number, rotation, or otherwise, as have been or shall be made in that behalf, forthwith prepare to go afloat, and shall go off in sufficient time to fall in with such ships and vessels, on pain of forfeiting, in case of neglect herein, for the first offence, the sum of 20*l.*, and for the second the offender shall be suspended from acting

as a pilot for twelve months, and for the third offence shall forfeit his licence to act as such pilot, and shall be rendered thereby incapable of acting thereafter as a pilot."

Sect. 19. "The master or other person having the command of any ship or vessel coming from the westward, and bound to any place in the rivers Thames or Medway, not having a duly qualified Cinque-Port pilot on board, shall, on the arrival of such ship or vessel off Dungeness, and until she shall have passed the south buoy of the Brake, or a line to be drawn from Sandown Castle to the said buoy, or have been at anchor for one hour, as hereinafter mentioned, display and keep flying the usual signal for a pilot to come on board; and if any duly qualified Cinque-Port pilot shall be within hail or approaching and within half a mile, with the proper distinguishing flag flying in his vessel or boat, the master or other person having the command of such ship or vessel shall, by heaving to in proper time or shortening sail, or by all practicable means consistently with the safety of the ship or vessel, facilitate such pilot getting on board, and shall give the charge of piloting his ship or vessel to such Cinque-Port pilot; and every person commanding any such ship or vessel, who shall not display and keep flying the usual signal for a pilot to come on board, from the time such ship or vessel shall have arrived off Dungeness, and until she shall have passed the south buoy of the Brake, or a line to be drawn from Sandown Castle to the said buoy, (unless in the meantime a duly qualified Cinque-Port pilot shall have come on board), or who shall within the limits aforesaid decline to take on board the first duly qualified Cinque-Port pilot who shall offer, or to give charge of his ship or vessel to such duly qualified Cinque-Port pilot, or who shall not heave to, shorten sail, or otherwise consistently with the safety of the ship or vessel facilitate such pilot's coming on board as aforesaid, shall forfeit and pay double the amount of the sum which would have been demanded for the pilotage of such ship or vessel: provided always, that if any ship or vessel coming from the westward, and bound to any place in the rivers Thames or Medway, shall anchor any where in the Downs between the South Foreland, and a line drawn from Sandown Castle to the south buoy of the Brake, having any licensed pilot other than a duly qualified Cinque-Port pilot on board, it shall not be necessary for the master of such ship or vessel to display or keep flying the usual signal for a pilot to come on board thereof, any longer than for and during one hour next after such ship or vessel shall so have anchored as aforesaid; and it shall be lawful for any duly qualified Cinque-Port pilot at any time before such ship or vessel shall have been at anchor one hour with such signal flying as aforesaid, to repair on board the same, and to take charge of her up the said rivers, but not otherwise."

Sect. 20. "And whereas the pilots of the Cinque Ports are divided into two parts or classes, called The Upper and Lower Book Pilots: and whereas the permitting Cinque-Port pilots of the lower book to take charge of ships which before the passing of the said act of the fifty-second year of the reign of his said late majesty king George the Third could only be taken by pilots of the upper book has diminished and will diminish the profits of the upper book pilots, and has increased and will increase the profits of the lower book pilots, and it is therefore reasonable that compensation should be made by the lower book pilots to the persons who were at the time of the passing of the said last-mentioned act upper book pilots; be it therefore enacted, that it shall be lawful for the Court of Loadmanage from time to time to settle the amount of the deductions to be made from the rates received by lower book pilots, for taking charge of vessels of greater draught of water than they could before the passing of the said act by law take, and in what proportions and how and in what manner and to whom the same are to be paid, and how the same shall be applied in making compensation to the persons who were upper book pilots at the time of the passing of the said act, for the losses they may sustain by such lower book pilots taking charge of such vessels, as aforesaid, provided that such deductions so to be fixed as aforesaid shall from time to time be diminished and decreased as such per-

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Masters of ships from the westward not having a pilot shall display a signal for one, and facilitate his getting on board.

Penalty.

Ships anchoring within certain limits, not having a Cinque-Port pilot, shall display a signal, and Cinque-Port pilot may within an hour repair on board and take charge.

Court of Loadmanage to settle the compensation to be paid to upper book pilots by lower book pilots for being allowed to take charge of ships of greater draught.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Cinque-Port pilots
to be subject to
the rules and
regulations of the
lord warden, &c.

sons who were so upper book pilots at the time of the passing of the said act shall die, be superannuated, or discontinue to act as pilots, and that such deductions shall be taken and accepted in lieu of all other allowances or contributions whatsoever from the said lower book pilots, except Trinity money, clerk's fees, and for widows."

Sect. 21. "All persons licensed or to be licensed to act as Cinque-Port pilots shall from time to time and at all times hereafter be subject to the regulations and government of the lord warden of the Cinque Ports and constable of Dover Castle for the time being, and it shall be lawful for the master and wardens of the said society or fellowship of pilots of Dover, Deal, and the Isle of Thanet, and the lord warden of the Cinque Ports and constable of Dover Castle for the time being, his lieutenant for the time being, and the deputy lieutenant for the time being, or either of them, with the assent of the commissioners of Loadmanage, or the major part of them, present at an assembly commonly called A Court of Loadmanage, to be held by the said lord warden or his deputy, as and when they shall see fit, or occasion shall require, to annul, alter, or amend the rules and regulations of the said lord warden or Court of Loadmanage, which shall be in force at the time of the passing of this act, and which are hereby directed to remain in force notwithstanding the same, and to make from time to time such other sufficient rules and orders for enforcing the due observance of the provisions of this act by all Cinque-Port pilots, and for providing for the good government, constant attendance, and regulation of all such pilots in going off to and taking charge of, and conducting and navigating his majesty's ships and vessels, and the ships and vessels in his majesty's employ, and also all ships and vessels whatever and wheresoever, within the proper and usual limits of such pilots, or wherein they shall for the time being act or be; and for effectually securing the performance of all the duties and services of such pilots at all times, and all alterations and amendments in such rules and regulations so in force as aforesaid, and all other rules and regulations, or alterations or amendments thereof, hereafter to be made, shall, before the same are allowed to take effect, or become binding on any person or persons whatever, be printed and transmitted to the Custom House in London, and there hung up in some conspicuous place in the long room of the said Custom House; and notices shall be published in the Gazette, and put up at the custom houses within the Cinque Ports, of such rules and regulations, or any alterations thereof, for inspection, for one calendar month, in order that any persons interested therein, whether as owners or masters of ships, or pilots, or otherwise, may transmit to the lord warden of the Cinque Ports, or his lieutenant, any objections which they may have thereto, for the purpose of the same being altered or confirmed; and if no objection to the rules and regulations so made or altered shall be proposed, by or on the behalf of any person or persons, within the space of thirty days after the notices shall have been given and made public, in the manner hereinbefore provided, they shall have the same force and effect to all intents and purposes as all other rules and regulations for the government of pilots within the jurisdiction of the Cinque Ports have; but if an objection shall be made to the lord warden, or his lieutenant, by or on behalf of any person or persons, to any rule or regulation, or to any alteration in any rule or regulation, of which notice shall be given as aforesaid, within thirty days after the publication thereof, then and in such case the operation thereof shall be suspended until reference shall be had to his majesty's most honourable privy council, who are hereby authorized and empowered to hear as well any person who shall be deputed by the Court of Loadmanage, as by the person or persons objecting, and finally to decide as to the confirming, altering, or rejecting such rules or regulations, which decision of the privy council shall be final and binding on all parties; and copies of such rules or regulations shall be delivered to every member of the said society or fellowship, and also to every new member of the said society on his election; and a copy or extract thereof shall be at all times in the possession of every pilot belonging to the Cinque Ports, as well those already

admitted and licensed as all others hereafter to be licensed as such pilots; and it shall be lawful in such rules and regulations to establish rates of payment out of such surplus earnings of the lower book pilots, as may arise from their being allowed to take the higher classes of ships, in the absence of pilots of the upper book, under the provisions of this act, for the better support and maintenance of the upper book pilots, and also penalties and forfeitures for the enforcing such rules and regulations, and better ordering of the said pilots, and for suspending or depriving any of the said pilots of their licences for breaking such rules or orders, or omitting to do any thing required by the same to be done, or for acting in anywise contrary to such rules or orders."

Sect. 22. "If any such rules and regulations so hereafter to be made in relation to Cinque-Port pilots as aforesaid shall appear to be in any material point erroneous, insufficient, or defective, it shall be lawful for the owner of any ship, or other person interested in the matter of such rules or regulations, to apply to his majesty's most honourable privy council, who shall thereupon amend, correct, or enlarge the same, or cause such other proper and sufficient rules and regulations to be drawn up for the purposes aforesaid; which rules and regulations so made, or so amended, corrected, and enlarged, shall be distributed, published, and made use of in such manner as his majesty's said privy council shall in that behalf appoint and direct; and the same shall take effect from such time as in the said rules or regulations shall be expressed in regard to the commencement thereof."

Sect. 23. "And whereas under the provisions of an act passed in the forty-eighth year of the reign of his said late majesty king George the Third, intituled 'An Act for the better Regulation of Pilots, and of the Pilotage of Ships and Vessels navigating the British Seas,' the number of pilots of the Cinque Ports was increased to one hundred and forty, and it hath been found that the said last-mentioned number is at present, in the time of peace, more than sufficient for the trade and navigation of this kingdom; be it therefore enacted, that until the number of such pilots shall by death or otherwise be reduced below one hundred and twenty, or shall be added to, as hereinafter mentioned, it shall not be lawful for the said lord warden and constable of Dover Castle, or his lieutenant for the time being, without special permission in that behalf given by his majesty's most honourable privy council, upon the recommendation of the said corporation of Trinity House of Deptford Strond, to fill up any more than each alternate vacancy which shall arise in the number of such pilots: provided always, that twenty Cinque-Port pilots more, or any less number of such pilots, shall and may be added to the then existing number whenever such addition shall be directed to be made by an order of such privy council, upon application thereto for that purpose by the said corporation of Trinity House, and in like manner from time to time, so as the number of Cinque-Port pilots shall not at any one time exceed one hundred and eighty, of which said reduction or additions respectively notice shall be given by or under the authority of the lord warden of the Cinque Ports, in the London Gazette, and in one or more newspaper or newspapers circulating in the counties of Middlesex and Kent."

Sect. 24. "Whenever such additions to the number of the said pilots shall respectively take place, as hereinbefore provided, the numbers so increased shall from thenceforth be kept up from time to time by the appointment of pilots in succession, as often as any vacancy or vacancies shall happen by death, incapacity, or dismissal: provided always, that in time of peace no more than each alternate vacancy in the number of Cinque-Port pilots shall be filled up without a special permission in that behalf given by his majesty's privy council, upon the recommendation of the said corporation of Trinity House, unless the number of such pilots shall, at the time of such filling up, be reduced below one hundred and twenty, in which case such vacancy shall and may be filled up from time to time without such permission as aforesaid."

Sect. 25. "From and after the passing of this act, the respective rates or

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

If such rules shall be defective, the privy council shall amend, correct, or enlarge the same.

As to the number of Cinque-Port pilots, and how and when to be increased.

The increased number of pilots shall be kept up.

But in peace no more than each alternate vacancy shall be filled up without permission of privy council, unless number below 120.

Rates in tables

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

(A.) and (B.) of schedule (A.), may be demanded by pilots, and no greater or less.

Penalty.

Rates may be varied by the corporation of Trinity House and lord warden of the Cinque Ports respectively, with the consent of the privy council.

Penalty.

Persons applying for licences shall execute a bond for securing obedience to bye-laws.

prices hereinafter enumerated in the tables marked (A.) and (B.) respectively in the schedule marked (A.) to this act annexed, shall and may be lawfully demanded and received by any pilot licensed, or to be licensed, by the said corporation of Trinity House of Deptford Strond, or by the lord warden of the Cinque Ports, and constable of Dover Castle for the time being, or his lieutenant for the time being respectively, for the piloting or conducting of any ship or vessel from place to place, as expressed in the said tables respectively; that is to say, the respective rates or prices enumerated in the said table marked (A.) shall and may be demanded and received by any pilot licensed, or to be licensed by the said corporation; and the respective rates or prices enumerated in the said table marked (B.) shall and may be demanded and received by any pilot licensed, or to be licensed, by the said lord warden of the Cinque Ports and constable of Dover Castle for the time being, or his lieutenant for the time being; and no greater or less rates or prices, or other reward or emolument, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, than such rates or prices, on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as also by the person paying, or offering such greater or less rate or price, reward, or emolument."

Sect. 26. "It shall and may be lawful for the said corporation of Trinity House of Deptford Strond (as to the said rates or prices to be demanded and received by pilots licensed, or to be licensed, by the said corporation) and for the said lord warden of the Cinque Ports, and constable of Dover Castle for the time being, or his lieutenant for the time being, (as to the said rates or prices to be demanded and received by pilots licensed, or to be licensed, by the said lord warden and constable, or his lieutenant), and they are hereby respectively authorized and empowered, from time to time, and at any time or times hereafter, with the consent of his majesty, his heirs, and successors, in his or their most honourable privy council, to increase, reduce, alter, or modify, all or any or either of the said respective rates or prices so enumerated in the said tables respectively, or to substitute other rates or prices in lieu thereof, and the same rates or prices so increased, reduced, altered, modified, or substituted as aforesaid, again in like manner, and with the like consent, from time to time to increase, reduce, alter, or modify, or others to substitute in lieu thereof, and to fix and determine the period (so that the same be not less than three calendar months from the giving of the notice hereinafter mentioned), from and after which such altered or substituted rates and prices are to be demanded, of which rates and prices, and of the period from and after which the same are to be demanded, notice shall from time to time be given, by hanging up printed tables thereof in some public or conspicuous place in the Custom House of London, and also at the Trinity House in London; and from and after the period specified in such last-mentioned tables, the respective rates or prices therein enumerated may and shall be demanded and received by any pilot licensed by the said corporation of Trinity House, or by the lord warden of the Cinque Ports and constable of Dover Castle for the time being, or his lieutenant for the time being respectively, instead of the said several rates and prices mentioned in the said tables marked (A.) and (B.) respectively; and from and after such period, no greater or less rates or prices, or other reward or emolument, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as also by the person paying or offering such greater or less rate or price."

Sect. 27. "Every person who shall apply for a licence to act as a pilot by virtue of this act, shall, before any licence shall be granted to him, execute a bond in a penal sum, at the discretion of the said corporation of Trinity House of Deptford Strond, or of the lord warden of the Cinque Ports and constable of Dover Castle for the time being, or his lieutenant for the time being (as the case may be), to an amount not exceeding 100*l.*, to be paid to the said corporation, or to the society or fellowship of pilots of Dover, Deal, and the Isle of Thanet (as the case may be), their successors or assigns, with

a condition subjoined thereto for better securing the due obedience of such pilot to the bye-laws, rules, orders, regulations, and ordinances made in pursuance of any act or acts of parliament heretofore passed, or which shall be made and framed pursuant to this act, which bond shall be capable of being given in evidence in any court of law or equity, without being stamped according to the laws relating to the stamp duties: provided always, that all bonds before given by pilots under any former act or acts of parliament shall continue in force, and be deemed to be given under this act, unless new bonds shall in any case be required by the said corporation, or by the said lord warden and constable, or his lieutenant respectively, in which case new bonds shall be given accordingly."

Sect. 28. "All bye-laws, rules, orders, regulations, and ordinances made under the said recited act of the forty-eighth year of the reign of his said late majesty, or under the said recited act of the fifty-second year of the reign of his said late majesty, or either of them, and which shall be in force under the same respectively at the time of the passing of this act, shall remain, continue, and be in full force and virtue, until the same respectively shall have been annulled or altered, or other bye-laws, rules, orders, regulations, or ordinances made in lieu thereof under this act, and shall be and are hereby declared to be good and valid bye-laws, rules, orders, regulations, and ordinances under this act, as fully as if they had been made under the authority of the same; any thing hereinbefore, or in any other act of parliament, to the contrary notwithstanding."

Sect. 29. "As well every such licence so granted or to be granted, renewed, or confirmed, by the said corporation of Trinity House of Deptford Strond as aforesaid, as also every such licence so granted or to be granted by the said lord warden of the Cinque Ports and constable of Dover Castle, or his lieutenant for the time being, as aforesaid, shall and may be by the said corporation, or by the said lord warden and constable of Dover Castle, or his lieutenant for the time being respectively, annulled, suspended, or adjudged to be forfeited, in such manner and at any such time or times as to them the said corporation and lord warden, or his lieutenant for the time being respectively, shall seem meet, as well during as at the end of the period for which such licences respectively shall have been so granted, renewed, or confirmed as aforesaid."

Sect. 30. "Every pilot whose licence shall be revoked, annulled, suspended, or adjudged to be forfeited, or who shall be suspended from acting as a pilot, as hereinbefore or hereinafter mentioned, shall and may, at any time within six months next after such revocation, annulling, suspension, or adjudication shall have been made, and upon giving notice to the corporation or other authority by which such licence shall have been so revoked, annulled, or suspended, or such adjudication made as aforesaid, and every person who, having complained of any such pilot, shall be dissatisfied with the adjudication made upon the matter of such complaint by the corporation or other authority which shall have cognizance thereof, shall and may, at any time within six months next after such adjudication and upon giving notice to the corporation or other authority by which such adjudication was made, appeal to his majesty's most honourable privy council, who shall thereupon hear the appeal, and confirm or annul any determination or adjudication in the premises, or at their discretion make any particular and special order relating thereto, and to the matter of such appeal, and the costs thereof, as the case may require."

Sect. 31. "It shall be lawful for the said corporation of Trinity House of Deptford Strond, and for the said society or fellowship of pilots of Dover, Deal, and the Isle of Thanet, and also for all other corporate bodies, or persons having lawful authority to appoint pilots within the limits of their respective jurisdictions, to license vessels of such size and description as shall appear to them to be proper, for the purpose of having pilots constantly in attendance in such vessels at sea, and to nominate and appoint, and from time to time to remove and again appoint the masters of such vessels respectively; and for the better support of such pilot vessels, it shall be lawful for

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Bonds already given to remain in force.

Bye-laws, &c. under former act to remain valid, unless altered by this act.

Licences may be revoked, annulled, or suspended.

Pilots so suspended, &c., and persons complaining against them, may appeal to the privy council.

Vessels to be licensed for having pilots in attendance at sea, &c.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

How pilot-boats
are to be dis-
tinguished.

Penalty.

Pilot carried off
in any other boat
to display a flag.

Penalty for car-
rying distinguish-
ing flag without
having a pilot on
board.

Boat running be-
fore a vessel, not
having a pilot,
and which cannot
be boarded, en-
titled to pilotage.

Name, &c. of pi-
lots appointed to
be transmitted to
the Trinity House,
and a list of all
pilots annually to
the Trinity House
and Custom
House.

any number of pilots, licensed by virtue of this act, or otherwise lawfully licensed, with the consent of the said corporate bodies, or persons by whom respectively such pilots have been or shall be appointed as aforesaid, to constitute a joint stock company or companies, for the providing and maintaining of such pilot vessels, which companies and the said vessels shall at all times be subject to such rules and regulations as shall from time to time be sanctioned and approved in that behalf by the corporate bodies, or persons by whom respectively such pilots shall respectively have been licensed."

Sect. 32. "Every pilot-boat or vessel, or other boat or vessel, in the pilot service of any corporation or society established by law, in relation to pilotage, or of or belonging to any person authorized to act as a pilot by such corporation or society, shall, at all times, and on every station, be fitted with black sides, and have the upper streak, next the gunwale, painted white, and shall, while afloat, carry a flag at the mast-head, or on a sprit or staff, or in some other equally conspicuous situation, which flag shall be of large dimensions, proportioned to the size of the boat or vessel carrying the same, and shall be half red and half white, in horizontal stripes, of which the uppermost shall be white, and the same shall at all times be kept and preserved in a clean and distinct condition, so as to be easily discerned at a proper and sufficient distance; and every such boat or vessel shall also have the name of the principal pilot thereof, for the time being, painted in broad white letters, of three inches in length, on a black ground, on her stern, and on each bow such number as shall be expressed in the licence of such principal pilot, which name and number shall not be hid or concealed by any person at any time, on pain of forfeiting, for the omission or evasion of any of the provisions hereinbefore made, in respect of such pilot-boat or vessel, the sum of 20*l.* to be paid by the senior pilot on board, who is hereby declared answerable for the due observance of the matters aforesaid, by every person on board such boat or vessel; and in case any pilot shall be carried off in any boat not in the service of any such corporation or society, such pilot shall exhibit a similar flag at the mast-head, or on a sprit or staff, to distinguish that such boat has a pilot on board, on pain of such pilot so carried off forfeiting the sum of 20*l.*, unless he shall show reasonable cause for having omitted to exhibit such flag."

Sect. 33. "If any boat or vessel, not having a licensed pilot on board, shall without lawful authority carry such distinguishing flag as aforesaid, the owner or owners, or the master or other person having charge of such boat or vessel, displaying or carrying any such flag, shall for every such offence forfeit and pay a sum of 100*l.*"

Sect. 34. "If any boat or vessel shall run before any ship or vessel not having a licensed pilot on board, when such ship or vessel cannot, from particular circumstances, be boarded for the purpose of directing her course, until a licensed pilot can be put on board, the pilot on board such boat or vessel, or if no pilot shall be on board and the person having charge of her shall run her before such ship or vessel, at the request or by the direction of the master, or other person having the command thereof, then such person having charge of such boat or vessel shall be entitled to the full pilotage for the distance run, until a duly licensed pilot shall be put on board, as if such pilot, or person respectively, had been actually on board such ship or vessel, and had the charge of her as a pilot."

Sect. 35. "From and after the passing of this act, all bodies politic and corporate, and all and every other person or persons, authorized to appoint or license pilots in or for any port of England, or any of the seas, coasts, harbours, or rivers thereof, or places therein, shall from time to time, as and when each appointment of a pilot shall be by them respectively made, forthwith transmit to the corporation of Trinity House of Deptford Strond, at the Trinity House in London, and to the commissioners of his majesty's customs, at the Custom House in London, the christian and surname, age, and place of residence of every such pilot so appointed, distinguishing the limits within which such pilot is appointed to act, and by whom such appointment is made; and the said bodies politic and corporate, and other

persons, authorized to appoint or license pilots as aforesaid, shall and they are hereby required to transmit to the said corporation of Trinity House, at the Trinity House aforesaid, and to the said commissioners of customs, at the Custom House aforesaid, annually, on the thirty-first day of December, or within one calendar month afterwards, a list, corrected up to the said thirty-first day of December in each year, of the names and residences of all the pilots within their several jurisdictions, in which list so to be transmitted to the Trinity House as aforesaid, shall be stated all such alterations (if any) as may have been made in the rates of pilotage charged, or in the rules and regulations for governing pilots within their respective districts."

Sect. 36. "And whereas by certain acts of parliament for the more effectual performance of quarantine, pilots are required, on going on board ships arriving from foreign parts, in certain cases to give information to the commanders thereof respecting proclamations and orders in council relative to the performance of quarantine, which renders it necessary that notice of such proclamations and orders should have been previously communicated to all pilots throughout England; be it further enacted, that the said commissioners of his majesty's customs shall from time to time with all convenient speed transmit to the principal officers of the revenue under their management, at the several ports in England, the names and places of residence of all such pilots of whose nomination they shall receive notice from the proper authority, or who shall be in the list so annually to be transmitted to such commissioners as aforesaid, as shall reside within the limits of each port respectively, in order that the said principal officers at the several ports may be enabled to communicate and deliver to every pilot within the limits of such ports respectively copies of all proclamations or orders in council respecting the performance of quarantine by ships arriving from infected places, which the said officers are hereby required to communicate accordingly."

Sect. 37. "The said corporation of Trinity House of Deptford Strond, and the Court of Loadmanage of the Cinque Ports, and all other corporations and persons authorized to manage or direct pilots in any part of England, under the authority of any act of parliament or charter whatever, shall annually, on the first day of January in every year, or within one calendar month then next following, transmit to the office of the receiver of the sixpenny duty in the port of London a list of all the vessels of every description employed by them respectively, or by persons under their authority, for the purposes of pilotage, with the number of men and boys belonging to or serving in any such vessels."

Sect. 38. "No pilot shall be taken to sea beyond the limits of his district by the commanding officer of any of his majesty's ships, or by the master or other person having the command of any other ship or vessel whatever, without such pilot's free consent, except under circumstances of absolute and unavoidable necessity; and then and in such case every pilot so taken to sea shall over and above his pilotage have and receive ten shillings and sixpence *per diem*, to be computed from and inclusive of the day next after the day on which the ship or vessel shall pass the limit to which such pilot was engaged to pilot her up to, and until he shall be returned to the port or place where he was taken on board, or until he shall have been discharged from the ship for a sufficient time to have enabled him to return there."

Sect. 39. "All pilots whose licences shall authorize them to pilot ships or vessels from any place to the westward up to London Bridge, shall qualify themselves, and shall be examined as to their qualification and ability to conduct any ship or vessel into and out of Ramsgate Harbour, and the harbours of Dover, Sandwich, and Margate, and shall be obliged to pilot any ships or vessels into and out of any of the said harbours; and if any such pilot shall refuse to take charge of or conduct any ship or vessel into or out of any of the said harbours, such pilot shall forfeit all pay and reward to which he might otherwise have been entitled for the pilotage of any such

3. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Commissioners of customs to transmit to their principal officers at ports in England the names, &c. of pilots residing within the limits of each port.

List of vessels employed for pilotage, with the number of hands, to be annually transmitted to the receiver of sixpenny duty in the port of London.

No pilot shall be taken to sea beyond his limits, without his consent, except in case of necessity, and then he shall receive 10*s.* 6*d.* per diem above his pilotage.

Pilots shall qualify themselves, and conduct ships into and out of Ramsgate and other harbours. Penalty for refusal.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Rates for such pilotage.

Ships bound to the Thames repairing to places for performance of quarantine, to pay full charges of pilotage, &c.

Pilots quitting ships in the Thames or Medway, without consent, before arrival at the place to which bound, to forfeit pay, and be liable to penalty.

Pilot to write his name in log-book, and same to be inserted in report of ships entering the port of London, and reported daily to the Trinity House, and monthly to the lord warden of the Cinque Ports.

Monthly reports to be made of vessels clearing outwards.

Penalty.

How pilotage of ships, except those not having British registers, trading to and from the port of

ship or vessel, and shall be subject to such fine or other punishment as shall be established in that behalf by the bye-laws, rules, orders, regulations, or ordinances of the corporation, or other authority, from which the licence of such pilot shall have been derived."

Sect. 40. "Every licensed pilot who shall take charge of and conduct any ship or vessel into or out of Ramsgate Harbour, or into or out of the harbours of Dover, Sandwich, or Margate, shall be entitled to and shall receive for such pilotage at and after the rate of five shillings for every foot of the draught of water of the ship or vessel so piloted and conducted by him into or out of any such harbours."

Sect. 41. "The master or other person commanding any ship or vessel bound to the river Thames, and which shall repair to Standgate Creek, or any other place appointed for the performance of quarantine, shall pay the full charges of pilotage up to Standgate creek, or other the place so appointed, and the pilot conducting such ship or vessel to Standgate creek, or other the place so appointed as aforesaid, shall be entitled to the further sum of eight shillings *per diem* for the days he shall be obliged to remain on quarantine."

Sect. 42. "If any pilot taking charge of any ship or vessel into the rivers Thames or Medway shall quit such ship or vessel at Gravesend or Standgate creek, or in any other part of the Thames or Medway respectively, before such ship or vessel shall have arrived at the place to which she is bound in the said rivers respectively, without the consent of the captain or other person having the command thereof, unless some other duly qualified pilot shall with such consent come on board, and shall take the charge and conduct of such ship or vessel for the residue of the pilotage to be performed, every such pilot so quitting such ship or vessel shall forfeit for every such offence all pay or reward to which he might be entitled for having conducted or piloted such ship or vessel to Gravesend, Standgate Creek, or such parts of the Thames or Medway respectively as aforesaid, and shall also be subject to such other penalty or punishment as by virtue of any of the provisions of this act, or of the bye-laws, rules, orders, regulations, and ordinances, hereby directed to remain in force, or which may be made or established in pursuance hereof, any pilots shall be liable to for quitting a ship or vessel before she shall arrive at her place of destination."

Sect. 43. "Every pilot shall write his Christian and surname in the log-book of every master or other person having the command for the time being of any ship or vessel entering the port of London, and required to be piloted according to the directions of this act; and every pilot or other person inserting a false name shall forfeit the sum of 20*l.*; and the master or other person having the command of such ship or vessel shall, in making the entry or report of such ship or vessel inwards, insert or cause to be inserted in such entry or report, the name or names of the pilot or pilots employed or engaged to pilot such vessel into the said port, which insertion shall be made in the said entry or report (without fee or reward) by the proper officer of the customs, who shall report the same to the corporation of the Trinity House daily, and to the lord warden of the Cinque Ports monthly; and such officer is hereby authorized and required to reject such entry or report, unless and until the name or names of the pilot or pilots so employed or engaged as aforesaid shall be inserted or notified to such officer for insertion in such entry or report as aforesaid; and also that the principal searcher or clearing officer of the customs at Gravesend shall demand and take the name or names of the pilot or pilots of all ships or vessels clearing outwards from the port of London, and shall transmit monthly lists of such names to the said corporation of Trinity House, on pain of forfeiting a sum not exceeding 10*l.* nor less than 5*l.*, to be paid by each and every of the persons aforesaid, who shall neglect to comply with any of the foregoing regulations."

Sect. 44. "All sums of money which shall become due to any licensed pilot for the pilotage of any ship or vessel, except ships and vessels not having British registers, trading to and from the port of London, shall and may be recovered from the owners or masters of such ship or vessel, or from the consignees or agents thereof, who shall have paid or made themselves

liable to pay any other charge for the said ship or vessel in the port of her arrival or delivery, as to pilotage inwards, and in the port from whence she shall clear out or sail as to pilotage outwards, which sums of money shall and may be levied in such and in the like manner, according to the amount of any such sums of money as aforesaid respectively, as any penalty or penalties of the like amount may be recovered and levied under and by virtue of this act, demand thereof being made in writing at least fourteen days before such levy."

Sect. 45. "The consignees or agents of any ship or vessel, from whom any sum of money due to any licensed pilot for pilotage shall have been recovered, or shall be recoverable, or by whom any such sum of money shall have been paid, are hereby authorized and empowered to retain in their hands respectively out of any monies which they may have received, or shall thereafter receive, for or on account of such ship or vessel, or the owner or owners thereof, so much as shall be sufficient to pay and discharge such pilotage, and any expenses attending the same."

Sect. 46. "And in order to prevent as well impositions and disputes respecting the charges for, as evasions in the payment of the pilotage of such ships and vessels trading to and from the port of London, and not having British registers, as are by law required to be piloted by pilots licensed by the said corporation of Trinity House, be it further enacted, that from and after the passing of this act the master or other person having the charge of every such ship or vessel which shall enter into or sail from the said port of London, or the consignees of or agents for such ship or vessel, shall pay or cause to be paid at the Trinity House in London, to such person or persons as shall from time to time be in that behalf appointed by the said corporation of Trinity House, the full pilotage inwards and outwards respectively of every such ship or vessel; that is to say, in all cases as to pilotage outwards the full amount of pilotage for the distance which such ship or vessel shall by law be required to be piloted by such licensed pilot as aforesaid; and so far as concerns the pilotage inwards, where a duly licensed pilot shall have been on board such ship or vessel, the full amount of pilotage for the distance piloted by him, if greater than that which such ship or vessel shall be so required to be piloted; and if less, or if no such pilot shall have been on board, then the full amount of the pilotage for the distance which such ship or vessel shall be by law required to be piloted as aforesaid; and if such pilotage inwards be not paid within fourteen days from the day of such ship or vessel's reporting inwards, the same shall and may be recovered by the said corporation from the master or other person having the charge of every such ship or vessel, or from the consignees or agents thereof, who shall have paid or made themselves liable to pay any other charge for such ship or vessel in the said port of London, and shall and may be levied in such and the like manner, according to the amount of any such sums of money respectively, as any penalty or penalties may be recovered and levied under and by virtue of this act."

Sect. 47. "The person or persons so to be appointed by the said corporation of Trinity House of Deptford Strond as last aforesaid shall, upon his or their receiving such pilotage, give to the person paying the same a certificate thereof in writing, and that no ship or vessel not having a British register, and being required by law to be piloted as aforesaid, shall be cleared at the office of his majesty's customs in the said port of London, on her outward-bound voyage, without the production of such certificate as aforesaid; and the said person or persons so to be appointed as aforesaid shall, upon proof to the satisfaction of the said corporation that such pilotage service hath been duly performed, pay over to the pilot duly licensed, who shall have had charge of every such ship or vessel, all such sum or sums of money as shall have been received by such person or persons appointed as aforesaid, and as shall be due and payable to such pilot for or in respect of such pilotage service so by him performed, after deducting and retaining thereout the poundage hereinbefore made payable to the said corporation; and the residue of such pilotage received by such person or persons so

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

London, may be recovered.

Consignees or agents may retain pilotage which they have paid or are liable to.

In what manner pilotage of ships not having British registers trading to and from the port of London shall be paid.

Certificate of payment of pilotage to be given.

Receivers to pay over to the pilot what shall be due to him;

and the residue.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.
with the pound-
age to be carried
to the pilots' fund.
Corporation of
Trinity House
may, out of pilot-
age received, re-
ward unlicensed
persons who have
piloted in the ab-
sence of a li-
censed pilot.

How the amount
of pilotage out-
ward of foreign
vessels shall be
ascertained.

How controver-
sies respecting
the draught of
water, of vessels
on the Thames,
shall be settled.

Corporation of
Trinity House to
make regulations
with respect to
pilotage of small
foreign vessels.

appointed as aforesaid shall, together with the poundage aforesaid, be carried to and applied to the purposes of the pilots' fund of the said corporation of Trinity House of Deptford Strond hereinafter mentioned."

Sect. 48. "In any case where such pilotage shall have been received as aforesaid, for or in respect of any ship or vessel not having a British register, if it shall appear to the said corporation that no licensed pilot was in fact employed on board thereof, it shall and may be lawful to and for the said corporation, and they are hereby authorized, if they shall so think fit, out of such pilotage to make or give to any unlicensed person or persons who shall have piloted or assisted in piloting such ship or vessel during so long time as no licensed pilot shall to the knowledge of such unlicensed person or persons, have offered to take charge thereof, such compensation or reward as in the discretion of the said corporation they shall deem proper in that behalf, not exceeding the sum which would have been payable to a duly licensed pilot."

Sect. 49. "And in order the better to facilitate the ascertaining and settling the amount of the pilotage outward of ships and vessels not having British registers in the port of London, under the authority of this act, be it further enacted, that the rates or amount of pilotage outward, to be payable and paid in respect of all such ships and vessels, shall from time to time be calculated and made out according to the scale or amount of the tonnage of every such ship or vessel, upon or according to which such ship or vessel shall be rated in the said port of London, to the payment of the light and other dues payable to the said corporation of Trinity House of Deptford Strond, or according to the draught of water thereof, as the said corporation of Trinity House of Deptford Strond shall in their discretion think most proper; any thing herein contained to the contrary thereof notwithstanding."

Sect. 50. "And in order to prevent or settle controversies concerning the draught of water of ships and vessels from time to time on the river Thames, (not having British registers,) be it further enacted, that whenever any difference about the draught of water of any ship or vessel shall arise between the master or other person having the command of any such ship or vessel, and any person who shall have piloted the same into the said river, or who shall be required to pilot the same therefrom, pursuant to the directions of this act, the said corporation of Trinity House of Deptford Strond, or some proper officer or person appointed by them, shall admeasure the draught of water of such ship or vessel, and shall settle and determine the same between the parties, upon application made by either of them to the said corporation within twelve hours after such ship or vessel shall have arrived at her moorings in the river on any inward voyage, or before the cargo thereof shall be begun to be unladen, or before such ship or vessel shall quit her moorings on any outward voyage, for which admeasurement the officer or person making the same shall be paid one guinea if the ship or vessel shall be below the entrance to the London Docks at Wapping, and half a guinea if above the said entrance to the London Docks, by the person against whom the said officer or person so appointed by the corporation of the Trinity House shall decide."

Sect. 51. "And whereas it may be expedient from time to time to relieve such ships and vessels not having British registers as may come to the port of London with fish, corn, or other provisions, in manner hereinafter directed; be it therefore enacted, that it shall be lawful for the said corporation of Trinity House of Deptford Strond, and they are hereby authorized and empowered from time to time, at their discretion, to make all such regulations in relation to the piloting of ships not having British registers, bringing fish, corn, or other provisions into the port of London, and which are or ought to be piloted by pilots licensed by the said corporation of Trinity House, for the ease and relief of such ships and vessels in respect of the rates or amount of pilotage hereby made payable or demandable for such ships and vessels, or for the exemption of such ships or vessels from any such rates or amount, or from any rules or regulations as to the pilotage

of such ships or vessels under the provisions of this act, or of any other act of parliament relating to pilotage, or under any law or usage whatsoever, as the said corporation of Trinity House of Deptford Strond shall from time to time deem just, proper, and expedient, in relation to such ships and vessels respectively; any thing herein contained to the contrary thereof notwithstanding."

Sect. 52. "And whereas under and by virtue of the said acts, passed in the forty-eighth and fifty-second years of the reign of his said late majesty king George the Third, the surplus rates of pilotage imposed on ships not having British registers have been applied in creating funds for the relief of superannuated and infirm pilots belonging to the said corporation of Trinity House of Deptford Strond, and the fellowship of the Cinque Ports respectively, as in the said acts mentioned; and it is expedient that the surplus rates of pilotage imposed by this act on such ships should be carried to such funds respectively, and that the said funds should be applied as hereinafter mentioned; be it therefore enacted, that as well the fund already created for such superannuated and infirm pilots belonging to the said corporation of Trinity House of Deptford Strond as aforesaid, as also all such surplus rates by this act imposed or to be imposed as aforesaid, on ships not having British registers, which shall pertain to the establishment of the said corporation of Trinity House, shall be carried to a fund to be called 'The Pilots' Fund,' and that such last-mentioned fund shall be applied by the said corporation in the manner following; (that is to say,) after defraying the expenses of carrying this act into execution, so far as concerns the the said corporation of Trinity House, the said fund shall be applied by the said corporation for the better support, maintenance, or relief of such indigent pilots belonging to the said corporation, as shall become incapable of discharging their duty from advanced age, or from any accident or infirmity, and of the wives, widows, and children of such pilots, to be applied and distributed in such manner and under such rules and regulations as the said corporation of Trinity House shall order and provide; and that as well the fund already created for such superannuated and infirm pilots belonging to the society or fellowship of the Cinque Ports as aforesaid, as also all such surplus rates of pilotage by this act imposed or to be imposed as aforesaid on ships not having British registers, which shall pertain to the establishment of the Cinque Ports, shall be applied by the said Court of Loadmanage for the better support, maintenance, or relief of such indigent pilots belonging to the said society or fellowship as shall become incapable of discharging their duty from advanced age, or from any accident or infirmity, to be applied and distributed in such manner and under such rules and regulations as the said Court of Loadmanage shall order and provide; and as well all and every the pilots who shall receive any such surplus rates, as also the person or persons to whom the pilotage of ships and vessels not having British registers, and entering into or sailing from the said port of London, is by this act directed to be paid, shall and they are hereby required to pay over all such surplus rates to such receivers, and at such convenient places as shall be in that behalf respectively appointed by the said corporation of Trinity House, and by the said lord warden and Court of Loadmanage respectively; of all which receipts, and of the appropriations aforesaid, the said corporation, and the said lord warden and Court of Loadmanage respectively, shall annually lay an account before parliament, within twenty days after the commencement of each session."

Sect. 53. "No owner or master of any ship or vessel shall be answerable for any loss or damage which shall happen to any person or persons whatsoever, from or by reason or means of no licensed pilot being on board of any such ship or vessel, or of no duly qualified pilot being on board thereof, unless it shall be proved that the want of such licensed or of such duly qualified pilot respectively shall have arisen from any refusal to take such licensed or qualified pilot on board, or from the wilful neglect of the master of such ship or vessel in not heaving to, or using all practicable

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Funds arising from surplus rates of pilotage on ships not having British registers to be applied for relief of indigent pilots, &c.

Owners or masters of ships not to be answerable for loss from want of a proper pilot, unless arising from refusal to take one, &c.

3. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Owners not liable for more than the value of the ship and freight.

Owners or masters not to be liable for loss arising from incompetency of pilots.

This act not to deprive persons of remedies previously existing.

Licensed pilots who have executed bond, not liable for neglect or want of skill beyond its penalty and the pilotage.

Penalty on masters of vessels piloted by any other than a licensed pilot.

means, consistently with her safety, for the purpose of taking on board thereof any pilot who shall be ready and offer to take charge of the same."

Sect. 54. "Nothing in this act contained shall extend or be construed to extend to make the owner of any ship or vessel liable in any such case for any loss or damage beyond the value of such ship or vessel, and her appurtenances, and the freight due or to grow due for and during the voyage wherein such loss or damage may happen or arise."

Sect. 55. "No owner or master of any ship or vessel shall be answerable for any loss or damage which shall happen to any person or persons whomsoever from or by reason or means of any neglect, default, incompetency, or incapacity of any licensed pilot acting in the charge of any such ship or vessel, under or in pursuance of any of the provisions of this act, where and so long as such pilot shall be duly qualified to have the charge of such ship or vessel, or where and so long as no duly qualified pilot shall have offered to take charge thereof."

Sect. 56. "Nothing in this act contained shall extend or be construed to extend to deprive any person or persons of any remedy or remedies upon any contract of insurance, or of any other remedy whatsoever, which he or they might have had if this act had not been passed, by reason or on account of the neglect, default, incompetency, or incapacity of any pilot duly acting in the charge of any ship or vessel under or in pursuance of any of the provisions of this act, or by reason or on account of no pilot, or of no duly qualified pilot, being on board of any such ship or vessel, unless it shall be proved that the want of a pilot, or of a duly qualified pilot, shall have arisen from any refusal to take a pilot or a duly qualified pilot on board, or from the wilful neglect of the master of such ship or vessel, in not heaving to or using all practicable means consistently with the safety of such ship or vessel, for the purpose of taking on board any pilot who shall be ready and offer to take charge of such ship or vessel."

Sect. 57. "No pilot licensed or to be licensed as aforesaid, who shall have executed the bond hereinbefore directed to be executed by him, and shall be piloting or conducting, within the limits specified in his licence, any ship or vessel which he shall be duly qualified to pilot, or be piloting in the absence of a duly qualified pilot, shall be liable to any action for damages at the suit of the party grieved in any greater sum than the amount which shall have been specified by way of penalty in such bond, and the pilotage payable to him in respect of the voyage on which such ship or vessel shall then be, for any loss or damage which shall happen from or by reason or means of his neglect or want of skill whilst acting in his capacity of a pilot on board such ship or vessel."

Sect. 58. "Every master of any ship or vessel who shall act himself as a pilot, or who shall employ or continue employed as a pilot any unlicensed person, or any licensed person acting out of the limits for which he is qualified, or beyond the extent of his qualification, after any pilot licensed and qualified to act as such within the limits in which such ship or vessel shall then actually be, shall have offered to take charge of such ship or vessel, or have made a signal for that purpose, shall forfeit for every such offence double the amount of the sum which would have been legally demandable for the pilotage of such ship or vessel, and shall likewise forfeit for every such offence an additional penalty of 5*l.* for every fifty tons' burthen of such ship or vessel, if the corporation of Trinity House of Deptford Strond, as to cases in which pilots licensed by or under the said corporation shall be concerned, or the said lord warden for the time being, or his lieutenant for the time being, as to cases in which the Cinque-Port pilot shall be concerned, shall think it proper that the person prosecuting should be at liberty to proceed for the recovery of such additional penalty, and certify the same in writing" (a).

(a) The master is not liable to the penalty for refusing to employ a pilot unless the pilot produces his licence as required by sect. 66, although it is not demanded. (*Hammond v. Blake*, 10 *B. & Cres.* 424.)

Sect. 59. "That, for and notwithstanding any thing in this act contained, the master of any collier, or of any ship or vessel trading to Norway, or to the Cattegat or Baltic, or round the North Cape, or into the White Sea, on their inward or outward voyages, or of any constant trader inwards, from the ports between Boulogne inclusive and the Baltic (all such ships and vessels having British registers, and coming up either by the North Channel, but not otherwise); or of any Irish trader using the navigation of the rivers Thames and Medway; or of any ship or vessel employed in the regular coasting trade of the kingdom; or of any ship or vessel wholly laden with stone from Guernsey, Jersey, Alderney, Sark, or Man, and being the production thereof; or of any ship or vessel not exceeding the burthen of sixty tons, and having a British register, except as hereinafter provided; or of any other ship or vessel whatever, whilst the same is within the limits of the port or place to which she belongs, the same not being a port or place in relation to which particular provision hath heretofore been made by any act or acts of Parliament, or by any charter or charters for the appointment of pilots, shall and may lawfully, and without being subject to any of the penalties by this act imposed, conduct or pilot his own ship or vessel when and so long as he shall conduct or pilot the same without the aid or assistance of any unlicensed pilot, or other person or persons, than the ordinary crew of the said ship or vessel."

Sect. 60. "From and after the passing of this act, it shall and may be lawful for his majesty, by and with the advice of his privy council, or by any order or orders in council, to permit and authorize ships and vessels not exceeding the burthen of sixty tons, and not having a British register, to be piloted and conducted without having a duly licensed pilot on board, upon the same terms and conditions as are by this act imposed on British ships and vessels, not exceeding the like burthen."

Sect. 61. "Nothing in this act contained shall extend, or be construed to extend, to subject the master or owner of any ship or vessel to any of the penalties of this act, for employing any person or persons whomsoever as a pilot or pilots in and for the assistance of such ship or vessel whilst the same shall be in distress, or in consequence thereof, or under any circumstances which shall have rendered it necessary for such owner or master to avail himself of the best assistance which at the time could be procured; any thing herein contained to the contrary thereof in anywise notwithstanding."

Sect. 62. "Nothing in this act contained shall extend, or be construed to extend, to subject to any penalty the master or mate of any ship or vessel, being the owner or a part owner of such ship or vessel, and residing at Dover, Deal, or the Isle of Thanet, for conducting or piloting such his own ship or vessel from any of the places aforesaid up or down the rivers Thames or Medway, or into or out of any port or place within the jurisdiction of the Cinque Ports."

Sect. 63. "When any ship or vessel shall have been brought into any port or ports in England by any pilot duly licensed, nothing in this act contained shall extend, or be construed to extend, to subject to any penalty the master or mate, or other person belonging to such ship or vessel, and having the command thereof, or, if in ballast, any person or persons appointed by any owner, or master or agent of the owner thereof, for afterwards removing such ship or vessel in such port or ports, for the purpose of entering into or going out of any dock, or for changing the moorings of such ship or vessel."

Sect. 64. "Every master, or other person, having the command for the time being of any ship or vessel, who shall report, or be privy or consenting to any other person's reporting, to any pilot taking the charge of such ship or vessel a false account of the draught of water of such ship or vessel, shall forfeit and pay for every such offence, in addition to the payment of the full rate of pilotage to the pilot entitled thereto, double the amount of such pilotage; and any master or other person, having the command for the time being of any ship or vessel, or having any interest, share, or property therein, who shall fraudulently alter any marks on the stem or stern post thereof,

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Masters of certain ships may pilot same so long as not assisted by unlicensed persons.

His majesty in council may authorize ships not exceeding 60 tons burthen to be conducted without pilots, as British ships of the like burthen.

Masters not liable to penalties for employing unlicensed persons whilst ship in distress.

Master or mate being owner or part owner, and residing at Dover, &c., may pilot his own ship up or down the Thames or Medway.

Ships brought into any port by pilots may be removed by the master, &c., for certain purposes.

Penalty for reporting to pilots a false account of a vessel's draught of water, or altering the marks denoting such draught.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Description of pilot to be on his licence, &c.

No pilot shall act until his licence has been registered, nor without producing it.

Penalty.

Licences to be delivered up when required, and on death of a pilot his licence shall be returned to the corporation or authority that granted it.

Penalty.

Pilots keeping public houses, &c. (unless authorized) or offending against the revenue laws, &c. shall forfeit their licences or be suspended.

Pilots suspended or adjudged to have forfeited

denoting the draught of water, or shall be privy and consenting thereto, shall, for any such offence forfeit and pay the sum of 500*l*.

Sect. 65. "A particular description of the person of every pilot shall be written in or upon or endorsed on the back of his licence; and every captain or master or other person having the command of a ship or vessel shall, on receiving a pilot on board, inspect his licence; and if he shall have reason to think that such pilot is not the person to whom the licence was granted, such captain or master or other person is hereby required forthwith to transmit a copy of such licence to the corporation or other authority by whom such licence shall have been granted, stating the date thereof, together with such account and description of the person producing such licence as may lead to the discovery of the offender."

Sect. 66. "No person shall take charge of any ship or vessel, or in any manner act as a pilot, or receive any compensation for acting as a pilot, until his licence shall have been registered by the principal officers of the custom house of the place at or nearest to which such pilot shall reside, (which officers are hereby required to register the same without fee or reward), nor without having his licence at the time of his so acting in his personal custody, and producing the same to the master of any ship or vessel, or other person who shall be desirous of employing him as a pilot, or to whom he shall offer his services, on pain of forfeiting a sum not exceeding 30*l*., nor less than 10*l*., for the first offence; and for the second or any subsequent offence, a sum not exceeding 50*l*., nor less than 30*l*.; and upon further pain, as to any person licensed as aforesaid, of forfeiting his licence or being suspended from acting as a pilot, by and at the discretion of the corporation or other authority from which such pilot's licence was derived, either for the first, second, or any subsequent offence."

Sect. 67. "Every pilot, licensed or to be licensed as aforesaid, shall, at all times when thereunto required, produce or deliver and yield up his licence to the corporation or other authority by which the same was granted; and that on the death of any such pilot, his executors or administrators, or one of them, or the person or persons to whose hands the licence of such deceased pilot shall come, shall without wilful delay transmit such licence to the corporation or other authority by which the same was granted, on pain of such pilot, executor, administrator, or other person, forfeiting for any neglect therein, a sum not exceeding 20*l*. nor less than 40*s*."

Sect. 68. "From and after the passing of this act, if any pilot, licensed by virtue of this act, or otherwise duly licensed, shall keep, or be concerned in keeping, either by himself or any agent or servant, or other person, or shall in any way be interested in the keeping of any public house or tavern or place of public entertainment, or in the selling of any wine or spirituous liquors, or tobacco or tea (unless such pilot shall have kept or been concerned or interested in the same before the 1st day of March, 1808, and shall be duly authorized by the corporation, or other authority under which such pilot shall act, to continue in such business or employment; or if any pilot, licensed as aforesaid, shall be convicted of any offence against any law or laws relating to the revenues of customs or excise, or shall be concerned in or shall wilfully connive at any indirect practices or frauds against the revenues of customs or excise, or shall procure, abet, connive at, or participate in, any destruction, spoil, or concealment, fraud, exaction, or corrupt practice, relating to ships or vessels, or persons in distress at sea, or by shipwreck, or relating to the tackle, apparel, or furniture, or the cargoes of such ships or vessels, or relating to the crew or passengers belonging thereto, or the monies, goods, or chattels of any of them, then and in every such case every pilot shall (over and above all other punishments, mulcts, and penalties for such offences), be adjudged to forfeit his licence, or shall be suspended from acting as a pilot, by and at the discretion of the corporation or other authority from which such pilot's licence was derived."

Sect. 69. "If any person, suspended or adjudged to have forfeited his licence as a pilot, shall, during the time of such suspension, or after such adjudication, take upon himself to conduct any ship or vessel as a pilot,

such person shall be liable to all such penalties, to be recovered and applied in like manner and form as are provided by this act, against any person who shall pilot or conduct any ship or vessel without ever having been licensed as a pilot."

Sect. 70. "It shall be lawful for any licensed pilot within the limits of his licence, and the extent of his qualification therein expressed, to supersede in the charge of any ship or vessel any person not licensed to act as a pilot, or not licensed so to act within such limits, or acting beyond the extent of his qualification; and every person assuming or continuing in the charge or conduct of any ship or vessel, without being a duly licensed pilot, or without being duly licensed to act as a pilot within the limits in which such ship or vessel shall actually be, or beyond the extent of his qualification, as expressed in his licence, after any pilot, duly licensed and qualified to act in the premises, shall have offered to take charge of such ship or vessel, shall forfeit for every such offence a sum not exceeding fifty pounds nor less than twenty pounds."

Sect. 71. "For and notwithstanding any thing in this act contained, any person whatsoever shall and may lawfully, and without being subject to any penalty by this act imposed, assume, or continue in the charge or conduct of any ship or vessel as a pilot, where and so long as a pilot duly licensed and qualified shall not have offered to take the charge of such ship or vessel, or made a signal for that purpose, or where and so long as such ship or vessel shall be in distress, or under circumstances which shall have rendered it necessary for the master of such ship or vessel to avail himself of the best assistance which at the time could be procured."

Sect. 72. "Every pilot licensed or to be licensed as aforesaid, who shall, when not actually engaged in his capacity of pilot, refuse or decline or wilfully delay to go off to or on board of or to take charge of any ship or vessel wanting a pilot, and within the limits specified in his licence, and of which he shall be qualified to take charge, upon the usual signal for a pilot being displayed from such ship or vessel, or upon being required so to do by the captain, or by any commissioned or warrant officer of or belonging to such ship or vessel (if the same shall be in his majesty's service), or by the master or other person having the command of such ship or vessel, or by any person or persons interested therein as principal or agent (if the same shall not be in his majesty's service), or upon being required so to do in either of the cases aforesaid, by any officer of the corporation or society to which such pilot shall belong, or by any principal officer of his majesty's customs (unless in any of the cases aforesaid), it shall be unsafe for such pilot to obey such signal, or comply with such requisition, or he shall be prevented from so doing by illness or other sufficient cause to be shown by him in that behalf; and every pilot licensed or to be licensed as aforesaid, who shall on any frivolous pretext quit any ship or vessel, or decline the piloting thereof, after he has been engaged to pilot the same, or after going alongside thereof, before the service shall have been performed for which he was hired, and without leave of the captain of such ship or vessel (if in his majesty's service), or of the master or other person having the command of such ship or vessel (if not in his majesty's service), shall forfeit for every such offence any sum not exceeding one hundred pounds, nor less than ten pounds, and shall be liable to be dismissed from being a pilot, or suspended from acting as such, at the discretion of the corporation or other authority by whom such pilot was licensed."

Sect. 73. "In case any pilot, licensed or to be licensed as aforesaid, shall employ or make use of, or shall compel or require any person having the command or charge of any ship or vessel, to employ or make use of any boat, anchor, cable, hawser, or any other matter or thing in or for the service or pretended service of such ship or vessel beyond what shall actually and *bonâ fide* be necessary and proper for the use thereof, with intent thereby to enhance or increase the charge or expense of pilotage or pilot assistance of such ship or vessel, whether for the gain and emolument of such pilot, or

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

their licences, liable to penalty for acting.

Licensed pilots may supersede unlicensed ones.

Penalty on unlicensed persons acting as pilots after a proper pilot shall have offered to take charge of the ship.

When unlicensed persons, &c. may act as pilots.

Penalty on pilots who shall decline to go off to or take charge of vessels, or who shall quit the same.

Penalty on pilots for employing or requiring the employment of any boat, &c., beyond what is necessary, thereby to increase expense.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Penalty for lending licence, and for drunkenness, and for conducting any vessel into danger, or injuring the same, or obtaining charge thereof by misrepresentation.

Penalty on pilots for not obeying the orders of dock masters.

How penalties above 20*l.* may be recovered.

for the gain or emolument of any other person or persons whomsoever, then and in every such case the person so offending shall forfeit and pay a sum not exceeding fifty pounds, nor less than ten pounds, and shall also be liable to be deprived of his licence, or suspended from acting as a pilot, at the discretion of the corporation or other authority by whom he was licensed."

Sect. 74. "In case any pilot, licensed or to be licensed as aforesaid, shall lend his licence to any unlicensed person to assist him in acting or claiming to act as a licensed pilot, or in case any such licensed pilot, or any person not being a pilot, but acting under pretext or colour of being a pilot, shall by drunkenness render himself incapable of conducting any ship or vessel, or shall wilfully or negligently run any ship or vessel on shore, or lose or injure the same, or the tackle or furniture thereof, or shall wilfully and knowingly conduct, lead, decoy, or betray any ship or vessel into danger in any manner not already provided against by any statute or statutes, or shall unnecessarily or improperly cut any cable or cables of or belonging to any ship or vessel, or cause or procure the same to be cut unnecessarily and improperly; or if any such person shall by wilful misrepresentation of any circumstances upon which the safety of any ship or vessel shall appear materially to depend, for the time being, obtain or endeavour to obtain the charge and conduct of any such ship or vessel, then and in every such case the person so offending, or who shall aid in, procure, abet, or connive at the committing of any such offence or offences, shall, besides being liable to damages at the suit of the party grieved, forfeit, and pay a sum not exceeding one hundred pounds nor less than twenty pounds; and if the person so offending shall be a pilot, he shall also be liable to be deprived of his licence, or suspended from acting as a pilot at the discretion of the corporation or other authority by whom his licence was granted."

Sect. 75. "And whereas the dock master or dock masters appointed by divers dock companies in the port of London, under and by virtue of divers acts of parliament, have power and authority to direct the mooring and unmooring, moving or removing of ships and other vessels, within certain distances from the entrances out of the river Thames into the docks of such companies respectively; be it therefore enacted, that from and after the passing of this act, if any pilot having the charge or direction of any ship or vessel within such distances from the respective entrances into the said docks respectively from the river Thames, and either intended to go into or having recently come out of the docks of the said companies respectively, shall neglect or refuse to obey such orders or directions as shall or may from time to time be given to such pilot by the said dock master or dock masters respectively, under and by virtue of and agreeably to the powers vested in him and them by any act or acts of parliament, touching or relating to the mooring, unmooring, moving, or removing of such ships or vessels so being under the charge or direction of such pilot as aforesaid, then and in every such case, every pilot so offending shall forfeit and pay a sum not exceeding fifty pounds, nor less than twenty pounds; and every such pilot shall be liable to be dismissed from being a pilot, or suspended from acting as such, at the discretion of the corporation, or other authority by whom such pilot was licensed."

Sect. 76. "All fines, penalties, or forfeitures hereinbefore or hereinafter imposed by this act, or by any of the bye-laws, rules, orders, regulations, or ordinances hereby directed to remain in force, or hereafter to be made under the authority of this act, which shall exceed the sum of twenty pounds (the manner of levying whereof shall not by this act be otherwise expressly provided for), and likewise all fines, penalties, or forfeitures imposed as aforesaid (the manner of levying which shall not by this act be otherwise expressly provided for), in cases where the lowest penalty recoverable not being greater than twenty pounds, and the largest penalty recoverable being greater than twenty pounds, the party prosecuting shall proceed in respect thereof for a sum greater than twenty pounds, with the written consent of the corporation of Trinity House of Deptford Strond, or of the

said lord warden or his lieutenant for the time being respectively (as the case may be), shall and may be recovered with full costs of suit, by action of debt, bill, plaint or information in any of his majesty's courts of record at Westminster, to be commenced within twelve calendar months next after such offence or offences shall be committed, or within such other time as is hereinafter in that behalf directed; the venue in which said action, bill, plaint, or information shall and may, at the option of the plaintiff or informant, be laid, and the said action, bill, plaint, or information tried either in the county of Middlesex or the City of London, or else in such county or place wherein the offence or offences shall have been committed, and no essoign, protection, wager of law, or any more than one imparlance, shall be allowed; and in any such case or cases it shall be lawful to sue for the largest penalty or penalties recoverable in that behalf, and the jury giving the verdict shall and may award either such largest penalty or penalties, or any other smaller sum or sums of money, not less than the sum specified as the lowest penalty recoverable in that behalf."

Sect. 77. "All fines, penalties, or forfeitures hereinbefore or hereinafter imposed by this act, or by any of the bye-laws, rules, orders, regulations, or ordinances hereby directed to remain in force, or hereafter to be made under the authority of this act, and which shall not exceed twenty pounds, (the manner of levying whereof shall not by this act be otherwise expressly provided for); and likewise all fines, penalties, or forfeitures imposed as aforesaid (the manner of levying which shall not by this act be otherwise expressly provided for), in cases where the lowest penalty recoverable, not being greater than twenty pounds, and the largest penalty recoverable being greater than twenty pounds, the party prosecuting shall proceed in respect thereof for any sum not exceeding twenty pounds, with such written consent as aforesaid, shall and may be levied and recovered within six calendar months after the offence or offences committed, or within such other times as is hereinafter in that behalf directed, before any justice or justices of the peace for the county, city, division, or place where the offence or offences shall be committed; or if committed by any pilot, then before any justice or justices of the peace for the county, city, division, or place aforesaid, or before any justice or justices of the peace, or any magistrate or magistrates of the city, town, or port to which such pilot shall belong; or if committed by any owner or master of any ship or vessel, before any justice or justices of the peace for the county, city, division, or place where the offence or offences shall have been committed, or before any justice or justices of the peace, or any magistrate or magistrates of the county, city, town, or port at which such owner or master shall reside, or to which the ship of such owner or master shall belong; or if committed on any part of the sea from Orfordness to the mouth of the river Thames, or from Dungeness to the mouth of the river Thames, or upon the rivers Thames or Medway, then only before some justice or justices of the peace of the counties of Kent, Surrey, Essex, or Middlesex, or before some magistrate or magistrates of the City of London; and all and every the justice and justices, magistrate and magistrates aforesaid, is and are hereby empowered and required, upon complaint to him or them made, to grant a warrant to bring before him or them such offender or offenders at the time or place in such warrant specified; and if on conviction of the offender or offenders respectively on his, her, or their confession, or on the evidence of any one or more credible witness or witnesses upon oath, (which oath such justice or justices, magistrate or magistrates, is and are hereby empowered to administer), such fine, penalty, or forfeiture shall not be forthwith paid, it shall and may be lawful to and for such justice or justices, magistrate or magistrates, to levy the penalty by distress, and for want of distress to commit every such offender or offenders to the common gaol or house of correction for the county, city, or place where such offender or offenders shall be convicted, there to remain without bail or mainprize for any time not exceeding six calendar months, nor less than twenty-one days, unless such fine, penalty, or forfeiture, and all reasonable charges attending the recovery thereof, shall be sooner paid :

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

How penalties not exceeding 20*l.* may be recovered.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

provided always, that in case the said respective periods of twelve calendar months and six calendar months, or either of them, within which fines, penalties, or forfeitures are to be sued for as aforesaid, shall in any case or cases elapse and run out before any action or prosecution hereby authorized and directed shall have been commenced for the recovery of such fines, penalties, or forfeitures; and if it shall in manner hereinafter mentioned be made to appear, as soon after the circumstances of the case shall reasonably admit, that the commencement of the action or prosecution has been delayed by reason of the absence of any party or parties whether offending or complaining, or by the absence of any necessary witness or witnesses, then upon such circumstances being stated by affidavit in writing, made before any judge of any of his majesty's courts of record at Westminster, it shall thereupon be lawful for any such judge or judges to order or authorize the commencement of such action or prosecution within such further time as such judge shall think fit to limit in that behalf; and in such case the action or actions, prosecution or prosecutions so ordered or authorized shall and may be commenced and prosecuted within the time or respective times so limited, in like manner and with the like effect in all respects as if such prosecutions had been commenced and prosecuted within the said respective periods of twelve months and six months hereby limited."

Justice of any county into which an offender may escape, may endorse the original warrant, which shall authorize the peace officers to execute it.

Sect. 78. "In case any person against whom a warrant shall be issued by any justice or justices, magistrate or magistrates, before or after any conviction for any offence against this act, shall escape, go into, or reside, or be in any other county, riding, division, city, liberty, town, or place not within the jurisdiction of the justice or justices, magistrate or magistrates granting such warrant, it shall be lawful for any justice of the peace of the county, riding, division, city, liberty, town, or place into which such person shall escape, either before or after conviction, and they and every of them are hereby required upon proof made upon oath of the hand-writing of any justice or justices, magistrate or magistrates, granting such warrant, to endorse his or their name or names on such warrant, and the same when so endorsed shall be sufficient authority to all peace officers to execute such warrant in such other county, riding, division, city, town, or place, out of the jurisdiction of the justice or justices granting the said warrant; and any justice or justices respectively, on the offender being apprehended and brought before him or them, within their respective jurisdictions, may proceed to hear and determine the complaint, in the same manner as if it had originally arisen within his or their respective jurisdictions, or may direct the offender to be carried, and such offender shall accordingly, in that case, be carried to or before the justice or justices who granted the original warrant, to be dealt with according to law."

Witnesses not appearing may be committed to the house of correction.

Sect. 79. "If any person who shall be summoned as a witness upon any complaint or information before any justice or justices of the peace, magistrate or magistrates, shall refuse or neglect to appear at the time by such summons appointed, having no just cause for such neglect or refusal, it shall be lawful for such justice or justices, magistrate or magistrates, on proof of such summons having been served, and of a tender of reasonable expenses having been made to such person on his being served with such summons, to issue a warrant, under his hand and seal or their hands and seals, to bring such person before him or them; and if on appearance, or on being brought before any justice or justices, magistrate or magistrates, such person shall refuse to be examined on oath concerning the premises, without having some just cause for such refusal, it shall be lawful for such justice or justices, magistrate or magistrates, by warrant under his hand and seal, or their hands and seals, to commit such person to the house of correction of the county, city, division, or place where any such person shall be apprehended, there to remain for any time not exceeding six weeks, nor less than ten days, as any such justice or justices, magistrate or magistrates, shall direct."

Persons convicted

Sect. 80. "Every person who in any examination upon oath, under the

provisions of this act, shall wilfully give false testimony, or a false account of the matter sworn to by such person, shall be liable to be prosecuted for the same by indictment, and if duly convicted of false swearing in the premises, shall be subject and liable to such punishments, disqualifications, and disabilities, as any person would be subject or liable to for wilful and corrupt perjury, in any other case by the laws and statutes of the realm."

Sect. 81. "And for the more easy and speedy conviction of offenders against this act, be it further enacted, that all and every justice and justices of the peace, magistrate or magistrates, before whom any person shall be convicted of any offence against this act, or against any bye-law, rule, regulation, or order hereby directed to remain in force, or hereafter to be made under the authority hereof, shall and may cause the conviction to be drawn up according to the following form, or in words to the like effect; *videlicet*,

'Be it remembered, that on the day of , in the year of our Lord , A. B. is convicted before me [or us], one [or two, as the case may be] of his majesty's justices of the peace for the [here specify the offence, and the time and place when and where committed, as the case may be,] contrary to an act passed in the sixth year of the reign of King George the Fourth, intituled [here insert the title of this act], and I [or, we] do adjudge that the said [insert the offender's name] hath therefore forfeited the sum of [here insert the penalty]. Given under my hand and seal [or, our hands and seals] the day and year first above written.'

And no *certiorari*, or other writ or process for the removal of any such conviction or any proceedings thereon, into any of his majesty's courts of record at Westminster, shall be allowed or granted."

Sect. 82. "It shall and may be lawful to and for any person or persons so convicted by any justice or justices of the peace, magistrate or magistrates before mentioned, of any offence or offences against this act, or against any bye-law, rule, order, regulation, or ordinance hereby directed to remain in force, or hereafter to be made under the authority hereof, within three calendar months next after such conviction, to appeal to the justices of the peace assembled at the general quarter sessions holden for the county, city, or place where the matter of appeal shall arise, first giving ten days' notice of such appeal to the person or persons appealed against, and of the matter thereof, and within fourteen days next after such notice entering into a recognizance before some justice of the peace for such county, city, or place, with sufficient sureties conditioned to try such appeal, and for abiding the determination of the court therein; and such justices so assembled shall, upon due proof of such notice having been given, and recognizance entered into, hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction, and award such costs to either party as to them shall seem just and reasonable (and the decision of the said justices therein shall be final, binding, and conclusive); and no proceeding to be had or taken in pursuance of this act shall be quashed or vacated for want of form only, or be removed by *certiorari* or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster or elsewhere; any law or statute to the contrary thereof in anywise notwithstanding."

Sect. 83. "One-third of all fines or penalties to be levied in pursuance of this act, or under any bye-law, rule, order, regulation, or ordinance hereby directed to remain in force, or hereafter to be made under the authority of this act, by whomsoever incurred, (save and except such fines or penalties, the application whereof shall by this act be otherwise expressly provided for), shall go to the person who shall inform or sue for the same, and the remainder of all such fines or penalties shall be carried to and applied to the purposes of the said fund belonging to the said corporation of Trinity House, called the Pilots' Fund, in case such fines or penalties shall be incurred by pilots licensed by the said corporation, or by any person or persons in relation to any matters wherein such last-mentioned pilots shall be in anywise concerned; and in case such fines or penalties shall be incurred by pilots belonging to the fellowship of the Cinque Ports, or by pilots under any other

8. The Pilot Act, &c.

6 Geo. 4, c. 125.

of giving false testimony guilty of perjury.

Convictions may be drawn up in the following form.

Appeal may be made to the quarter sessions, who may finally determine the matter, and award costs.

Proceedings not to be quashed for want of form, or removed by *certiorari*.

Application of penalties.

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Limitation of actions.

General issue.

Treble costs.

Regulations in any act relating to pilotage in any river, &c., and which refer to the repealed statutes, to continue in force notwithstanding such repeals.

Act not to extend to ships belonging to his majesty.

Act not to affect the jurisdiction of the Court of Loadmanage, or of the High Court of Admiralty.

Act not to prejudice any right of the City of London.

Act not to affect any districts having separate jurisdictions.

jurisdictions or authorities, or by any other person or persons in relation to any matters wherein such pilots respectively shall be in anywise concerned, then the remaining two-thirds of such last-mentioned fines or penalties shall be carried to and applied to the purposes of such fund as hath been or shall be created for the relief of such indigent pilots belonging to the said fellowship, or such other jurisdictions or authorities respectively, as shall become incapable of discharging their duty from advanced age, or from any accident or infirmity."

Sect. 84. "If any suit or action shall be brought or prosecuted against any person or persons for anything done or to be done in pursuance of this act, in every such case the action or suit shall be commenced within six calendar months next after the fact committed, and not otherwise, and shall be laid or brought in the county, city, or place where the cause of action arises, and not elsewhere; and the defendant or defendants in such action or suit may plead the general issue not guilty, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if it shall appear so to be done, or if any such action or suit shall be brought after the time limited for bringing the same, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuited, or suffer a discontinuance of his or their action or actions, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases of law."

Sect. 85. "All acts of parliament, and all clauses, provisions, powers, authorities, regulations, penalties, and forfeitures contained in any act, which in any manner relate to the regulation of pilots or pilotage within any river, port, or harbour, or within any local limits specified in any such act, clause, or provision, and in which any reference is made to the said acts passed in the forty-eighth and fifty-second years of the reign of his said late majesty king George the Third as aforesaid, or either of them, or in any manner apply thereto, or vary or alter any of the provisions thereof as to pilots or pilotage within any such limits, shall continue in full force notwithstanding the repeal of the said acts of the forty-eighth and fifty-second years aforesaid, and shall be deemed to refer and apply to this act, and shall be so construed as if the same were particularly referred to in this act; any thing in this act to the contrary notwithstanding."

Sect. 86. "Nothing in this act contained shall extend or be construed to extend to any ships or vessels belonging to his majesty, his heirs and successors, as to their being compelled to take pilots on board."

Sect. 87. "Nothing herein contained shall extend to affect or impede the jurisdiction of the court of Loadmanage, as far as respects the pilots appointed under the authority of the said court; and provided also, that nothing in this act contained shall extend or be construed to extend to affect or impair the jurisdiction of the High Court of Admiralty."

Sect. 88. "Nothing in this act contained shall extend or be construed to extend to prejudice or take away any right, property, authority, or jurisdiction of the mayor of the City of London, or of the mayor and commonalty and citizens of the City of London, to, in, and upon the river Thames aforesaid."

Sect. 89. "Nothing in this act contained shall extend or be construed to extend to the taking away, abridging, defeating, impeaching, or interrupting of any grants, liberties, franchises, or privileges heretofore granted by any charters or acts of parliament to the pilots of the Trinity House of the town of Kingston-upon-Hull, or the Trinity House of Newcastle-upon-Tyne, or to give any authority to the corporation of the Trinity House of Deptford Strond, within any ports or districts having separate jurisdictions in matters of pilotage, under any act of parliament or charter, or to alter or repeal any provisions contained in any act or acts of parliament relating to the pilots of any ports or districts in relation to which particular provision shall have been made

in any act or acts of parliament as to the pilots or pilotage, or to the pilotage within the limits prescribed by any act or acts of parliament relating to pilotage for such ports, or to the burthen of vessels navigating to or from such ports."

Sect. 90. "All provisions, clauses, penalties, and forfeitures, contained in an act passed in the eighth year of the reign of queen Elizabeth, or any other act or acts made and in force for the preservation of sea-marks and beacons, shall extend and be construed to extend to all vessels duly appointed to exhibit lights therein for the preservation of ships and vessels at sea, and to all persons removing, injuring, or destroying such vessels or lights, which offences may be laid and tried in any county in England."

Sect. 91. "Every person who shall ride by, make fast to, or remove, or wilfully run down, or run foul of any vessel, appointed or placed to exhibit lights, or any buoy or beacon belonging to the said corporation of Trinity House of Deptford Strond, or belonging to or placed by any other corporation having lawful authority to place the same, shall, besides being liable to the expense of replacing or making good any damage occasioned thereby, forfeit for every such offence any sum not exceeding 50*l.*, nor less than 10*l.*, to be recovered by action of debt, bill, plaint, or information in which no essoign, protection, privilege, wager of law, or more than one imparlance shall be granted or allowed; one-third of which said penalty shall go to the persons who shall inform or sue for the same, and the remainder of which said penalty shall go to the said corporation of Trinity House of Deptford Strond, or other the corporation to which such vessel, buoy, or beacon shall belong, or by which the same shall have been placed as aforesaid, as the case may be, to be applied to the charitable purposes of the said corporations respectively."

Sect. 92. "This act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, by all judges, justices, and others, without being specially pleaded."

Sect. 93. "This act may be altered, amended, or repealed by any act or acts to be passed in this present session of parliament."

8. *The Pilot Act, &c.*

6 Geo. 4, c. 125.

Provisions of former acts for preservation of sea marks and beacons to extend to all vessels appointed to exhibit lights, &c.

Penalty for riding by, &c. such vessels, or any buoy or beacon.

Public act.

Act may be altered or repealed this session.

The act then gives the following schedules:—

SCHEDULE (A.) See it, *post*, 702, 703.

SCHEDULE (B.)

Oath to be taken by the Master and Wardens of the Society of Cinque-Port Pilots.

"I, A. B., do swear that I will diligently and impartially examine and inquire into the capacity and skill of _____, in the art of piloting ships and vessels over the flats, and round the Long Sand Head, and up the rivers of Thames and Medway, and into Ramsgate, Dover, Sandwich, and Margate harbours, and also upon the coasts of Flanders and Holland; and will make true and speedy return thereof to the Lord Warden of the Cinque-Ports for the time being, or his deputy, without favour, affection, fee, or reward.

"So help me God."

SCHEDULE (C.)

Oath to be taken by Sub-Commissioners of Pilotage.

"I, A. B., do swear, that I will diligently and impartially examine into the capacity and skill of _____, in the art of piloting ships and vessels into the roadstead, port, or harbour, and upon the coasts following: videlicet [here describe the limits within which the person examined is intended to act as pilot]; and will make true and speedy return thereof to the corporation of Trinity House of Deptford Strond, without favour, affection, fee, or reward, other than such fee or reward as is allowed by the bye-laws or regulations duly established in that behalf.

"So help me God."

SCHEDULES REFERRED TO, IN THIS ACT.—SCHEDULE (A).

TABLE (A.)—Table of the Rates of Pilotage to be demanded and received by Pilots, licensed by the Corporation of Trinity House of Deptford Strond, for Piloting Ships and Vessels within the Limits in the said Table mentioned.

FROM	TO	7 Feet and under.	8 Feet.	9 Feet.	10 Feet.	11 Feet.	12 Feet.	13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	23 Feet and upwards.
The Sea, Orfordness, the Downs, Hoveley Bay, and <i>vice versa</i> . .	Nore or Warps	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 5 9	£ s. d. 6 5 0	£ s. d. 6 13 6	£ s. d. 7 7 3	£ s. d. 7 16 6	£ s. d. 8 14 9	£ s. d. 9 8 6	£ s. d. 10 17 0	£ s. d. 11 10 0	£ s. d. 12 17 6	£ s. d. 14 5 3	£ s. d. 16 11 3	£ s. d. 18 8 0
	Gravesend, Chatham, Standgate Creek, or Blackstakes	£ s. d. 4 12 0	£ s. d. 5 7 9	£ s. d. 6 3 3	£ s. d. 6 18 0	£ s. d. 7 11 9	£ s. d. 8 5 6	£ s. d. 8 19 6	£ s. d. 9 13 3	£ s. d. 10 7 0	£ s. d. 11 0 9	£ s. d. 11 14 6	£ s. d. 14 1 6	£ s. d. 16 13 0	£ s. d. 19 6 6	£ s. d. 21 5 0	£ s. d. 23 3 9	£ s. d. 25 2 3
	Long Reach	£ s. d. 4 16 6	£ s. d. 5 12 3	£ s. d. 6 8 0	£ s. d. 7 2 6	£ s. d. 7 18 3	£ s. d. 8 14 9	£ s. d. 9 8 6	£ s. d. 10 0 0	£ s. d. 10 16 3	£ s. d. 11 10 0	£ s. d. 13 3 6	£ s. d. 15 9 0	£ s. d. 18 11 9	£ s. d. 21 5 0	£ s. d. 23 0 0	£ s. d. 24 16 9	£ s. d. 26 13 6
	Woolwich or Blackwall	£ s. d. 5 5 9	£ s. d. 6 1 6	£ s. d. 6 17 0	£ s. d. 7 11 9	£ s. d. 8 10 3	£ s. d. 9 4 3	£ s. d. 10 2 6	£ s. d. 11 0 9	£ s. d. 11 14 6	£ s. d. 12 8 6	£ s. d. 14 3 6	£ s. d. 16 5 9	£ s. d. 19 10 0	£ s. d. 22 1 6	£ s. d. 24 16 9	£ s. d. 27 12 0	£ s. d. —
The Nore or Warps, and <i>vice versa</i> . .	Moorings or London Docks	£ s. d. 5 16 0	£ s. d. 6 9 9	£ s. d. 7 3 6	£ s. d. 7 17 3	£ s. d. 8 19 6	£ s. d. 9 13	£ s. d. 10 11 6	£ s. d. 11 10 0	£ s. d. 12 8 6	£ s. d. 13 2 3	£ s. d. 14 14 6	£ s. d. 17 0 6	£ s. d. 20 10 3	£ s. d. 23 4 6	£ s. d. —	£ s. d. —	£ s. d. —
	Gravesend, Standgate Creek, or Blackstakes	£ s. d. 1 18 9	£ s. d. 2 3 3	£ s. d. 2 7 0	£ s. d. 2 10 6	£ s. d. 2 19 9	£ s. d. 3 6 3	£ s. d. 3 11 9	£ s. d. 3 15 6	£ s. d. 4 2 9	£ s. d. 4 10 3	£ s. d. 5 1 3	£ s. d. 5 16 0	£ s. d. 6 8 9	£ s. d. 7 14 6	£ s. d. 8 14 0	£ s. d. 9 13 3	£ s. d. 10 12 6
	Long Reach, or Chatham	£ s. d. 2 6 0	£ s. d. 2 10 6	£ s. d. 2 15 3	£ s. d. 2 19 9	£ s. d. 3 9 0	£ s. d. 3 18 3	£ s. d. 4 2 9	£ s. d. 4 7 0	£ s. d. 4 13 9	£ s. d. 5 5 0	£ s. d. 5 16 0	£ s. d. 6 15 3	£ s. d. 8 5 6	£ s. d. 9 13 3	£ s. d. 10 12 6	£ s. d. 11 11 9	£ s. d. 12 15 3
	Woolwich or Blackwall	£ s. d. 2 15 3	£ s. d. 3 1 9	£ s. d. 3 8 0	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 10 3	£ s. d. 4 19 0	£ s. d. 5 8 6	£ s. d. 5 16 0	£ s. d. 6 4 3	£ s. d. 7 2 6	£ s. d. 8 3 9	£ s. d. 9 4 0	£ s. d. 11 11 9	£ s. d. 12 11 3	£ s. d. 13 16 0	£ s. d. —
Gravesend Reach, and <i>vice versa</i> . .	Moorings or London Docks	£ s. d. 3 4 6	£ s. d. 3 10 9	£ s. d. 3 17 3	£ s. d. 4 2 9	£ s. d. 4 16 6	£ s. d. 5 5 9	£ s. d. 5 15 0	£ s. d. 6 4 3	£ s. d. 6 13 6	£ s. d. 7 2 6	£ s. d. 8 1 0	£ s. d. 9 4 0	£ s. d. 11 0 9	£ s. d. 12 17 6	£ s. d. 13 16 0	£ s. d. —	£ s. d. —
	Long Reach	£ s. d. 0 9 3	£ s. d. 0 14 9	£ s. d. 1 0 3	£ s. d. 1 5 3	£ s. d. 1 10 0	£ s. d. 1 14 6	£ s. d. 1 19 0	£ s. d. 2 3 9	£ s. d. 2 8 3	£ s. d. 2 13 0	£ s. d. 2 17 6	£ s. d. 3 2 0	£ s. d. 3 6 9	£ s. d. 3 11 3	£ s. d. 4 12 0	£ s. d. 5 10 6	£ s. d. —
	Woolwich or Blackwall	£ s. d. 1 3 0	£ s. d. 1 7 6	£ s. d. 1 12 3	£ s. d. 1 16 9	£ s. d. 2 4 3	£ s. d. 2 13 6	£ s. d. 3 2 6	£ s. d. 3 11 9	£ s. d. 3 18 3	£ s. d. 4 5 6	£ s. d. 4 13 9	£ s. d. 5 1 3	£ s. d. 6 4 3	£ s. d. 7 11 9	£ s. d. 8 19 6	£ s. d. 9 13 3	£ s. d. —
	Moorings or London Docks	£ s. d. 1 7 6	£ s. d. 1 14 0	£ s. d. 2 0 6	£ s. d. 2 6 0	£ s. d. 2 15 3	£ s. d. 3 4 6	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 6 8 9	£ s. d. 7 7 3	£ s. d. 8 14 9	£ s. d. —	£ s. d. —	£ s. d. —
Long Reach, and <i>vice versa</i> . .	Sheerness, Standgate Creek, or Blackstakes	£ s. d. 2 15 3	£ s. d. 2 19 0	£ s. d. 3 1 9	£ s. d. 3 4 6	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 7 7 3	£ s. d. 7 16 5	£ s. d. —	£ s. d. —	£ s. d. —	£ s. d. —
	Chatham	£ s. d. 3 4 6	£ s. d. 3 8 0	£ s. d. 3 10 9	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 7 7 3	£ s. d. 7 16 5	£ s. d. 8 5 6	£ s. d. 8 5 6	£ s. d. 9 4 0	£ s. d. —	£ s. d. —
	Woolwich or Blackwall	£ s. d. 0 18 6	£ s. d. 1 2 0	£ s. d. 1 4 9	£ s. d. 1 7 6	£ s. d. 1 16 9	£ s. d. 2 6 0	£ s. d. 2 15 3	£ s. d. 3 4 6	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 3 6	£ s. d. 6 8 9	£ s. d. 7 7 3	£ s. d. 8 5 6	£ s. d. 9 4 0	£ s. d. —
	Moorings or London Docks	£ s. d. 1 7 6	£ s. d. 1 11 3	£ s. d. 1 14 0	£ s. d. 1 16 9	£ s. d. 2 6 0	£ s. d. 2 15 3	£ s. d. 3 4 6	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 7 7 3	£ s. d. 8 5 6	£ s. d. 9 4 0	£ s. d. —	£ s. d. —	£ s. d. —
Woolwich or Blackwall, and <i>vice versa</i> . .	Sheerness, Standgate Creek, or Blackstakes	£ s. d. 3 4 6	£ s. d. 3 8 0	£ s. d. 3 10 9	£ s. d. 3 13 6	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 7 7 3	£ s. d. 7 16 5	£ s. d. 8 5 6	£ s. d. 8 5 6	£ s. d. 9 4 0	£ s. d. —	£ s. d. —
	Chatham	£ s. d. 3 13 6	£ s. d. 3 17 3	£ s. d. 4 0 0	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 6 18 0	£ s. d. 7 7 3	£ s. d. 7 16 6	£ s. d. 8 5 6	£ s. d. 8 14 9	£ s. d. —	£ s. d. —	£ s. d. —
	Moorings or London Docks	£ s. d. 0 18 6	£ s. d. 1 2 0	£ s. d. 1 4 9	£ s. d. 1 7 6	£ s. d. 1 10 0	£ s. d. 1 12 3	£ s. d. 1 16 9	£ s. d. 2 1 6	£ s. d. 2 6 0	£ s. d. 2 10 6	£ s. d. 2 15 3	£ s. d. 2 19 9	£ s. d. 3 4 6	£ s. d. 3 9 0	£ s. d. —	£ s. d. —	£ s. d. —
	Sheerness, Standgate Creek, or Blackstakes	£ s. d. 3 13 6	£ s. d. 3 17 3	£ s. d. 4 0 0	£ s. d. 4 2 9	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 6 18 0	£ s. d. 7 7 3	£ s. d. 7 16 6	£ s. d. 8 5 6	£ s. d. 8 14 9	£ s. d. —	£ s. d. —	£ s. d. —
Chatham	Chatham	£ s. d. 4 2 9	£ s. d. 4 6 6	£ s. d. 4 9 3	£ s. d. 4 12 0	£ s. d. 5 1 3	£ s. d. 5 10 6	£ s. d. 5 19 6	£ s. d. 6 8 9	£ s. d. 6 18 0	£ s. d. 7 7 3	£ s. d. 7 16 6	£ s. d. 8 5 6	£ s. d. 8 14 9	£ s. d. 9 4 0	£ s. d. —	£ s. d. —	£ s. d. —

Ships not having British Registers are to pay One-Fourth more than Ships having British Registers, except when such first-mentioned Ships shall be chiefly laden with Corn, or other Provisions, or shall, by any Order of His Majesty's most Honourable Privy Council, be privileged to enter the Ports of this Kingdom, upon paying the same Duties of Tonnage as are paid by British Ships, in which Case such Ships and Vessels, not having British Registers, shall pay the like Rates of Pilotage only as are payable by Ships having British Registers.

For Half a Foot exceeding the above Draughts of Water, the medium Price between the Two Limits.—For intermediate Distances a proportionate Rate.

For removing a Ship or Vessel from Moorings into a Dry or Wet Dock :

For a Ship under 300 Tons	£0 15 0
300 to 600	1 1 0
600 to 1000	1 11 6
above 1000	2 2 0

In the River Thames, above Gravesend { For a Boat of a Class carrying an Anchor of above 4 Cwt. with a corresponding Tow-Line £2 2 0 } Per Trip for the whole Distance from Gravesend to London; and in proportion for any Part of that Distance.
Do. 2 Cwt. 1 1 0
Do. under 2 Cwt. 0 15 0
And for each Man's Service in those Boats, 8s. per Tide.

SCHEDULE (A.)—Continued.

TABLE (B.)—A Table of the Rates of Pilotage to be demanded and received by Pilots licensed by the Lord Warden of the Cinque Ports and Constable of Dover Castle, or his Lieutenant for the time being, for Piloting Ships and Vessels within the Limits in the said Table mentioned.

FROM	TO	Under 7 Feet.	From 7 Feet to 10 Feet.	11 Feet.	12 Feet.	13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	23 Feet and upwards.
The Downs	Nore, Sheerness, Standgate Creek, Gravesend	£ s. d. 5 5 0	£ s. d. 7 17 6	£ s. d. 8 13 3	£ s. d. 9 9 0	£ s. d. 10 4 9	£ s. d. 11 0 6	£ s. d. 11 16 3	£ s. d. 12 12 0	£ s. d. 13 7 9	£ s. d. 16 1 3	£ s. d. 19 0 0	£ s. d. 22 1 0	£ s. d. 24 5 0	£ s. d. 26 9 2	£ s. d. 28 13 3
	Longreach	£ s. d. 5 16 0	£ s. d. 8 8 6	£ s. d. 9 9 0	£ s. d. 10 4 9	£ s. d. 11 3 0	£ s. d. 11 18 10	£ s. d. 12 18 3	£ s. d. 13 14 0	£ s. d. 15 0 9	£ s. d. 17 14 4	£ s. d. 21 4 2	£ s. d. 24 5 1	£ s. d. 26 9 2	£ s. d. 28 13 3	£ s. d. 30 17 4
	Blackwall or London	£ s. d. 6 12 3	£ s. d. 8 19 6	£ s. d. 10 4 9	£ s. d. 11 0 6	£ s. d. 12 1 6	£ s. d. 12 17 3	£ s. d. 14 0 4	£ s. d. 14 16 0	£ s. d. 16 13 9	£ s. d. 19 7 5	£ s. d. 23 8 3	£ s. d. 26 9 2	£ s. d. 28 13 3	—	—
Standgate Creek	Gravesend	£ s. d. 3 6 2	£ s. d. 3 17 0	£ s. d. 4 8 2	£ s. d. 4 19 0	£ s. d. 5 10 3	£ s. d. 6 1 3	£ s. d. 6 12 3	£ s. d. 7 3 3	£ s. d. 7 14 4	£ s. d. 8 5 4	£ s. d. 8 16 4	£ s. d. 9 7 4	—	—	—

From the several Rates mentioned in this Table (B.) there shall be deducted 5 per Cent. when the number of Cinque-Port Pilots shall be reduced to 120.

Ships not having British Registers are to pay One Fourth more than Ships having British Registers; except when such first-mentioned Ships shall be chiefly laden with Corn, or other Provisions, or shall, by any Order of his Majesty's most Honourable Privy Council, be privileged to enter the Ports of this Kingdom, upon paying the same Duties of Tonnage as are paid by British Ships; in which case, such Ships and Vessels not having British Registers shall pay the like Rates of Pilotage only as are payable by Ships having British Registers.

For Half-a-Foot exceeding the above Draughts of Water, the medium Price between the Two Limits.

For intermediate Distances, a proportionate Rate.

For putting a Pilot on board, and for Pilotage of Ships and Vessels to the Anchorage in the Downs*.		60 Tons, and under 150.	150 Tons, and under 250.	250 Tons, and under 400.	400 Tons, and under 600.	600 Tons, and upwards.
From off Dungeness to off Folkestone; the Church bearing N. N. W. by Com-pass	£ s. d.	2 0 0	3 0 0	3 10 0	4 0 0	5 5 0
	£ s. d.	2 0 0	3 0 0	3 10 0	4 0 0	5 5 0
From off Folkestone to the South Foreland, the Lights in one	£ s. d.	1 10 0	2 0 0	2 10 0	3 0 0	4 4 0
	£ s. d.	1 10 0	2 0 0	2 10 0	3 0 0	4 4 0
From off the South Foreland to the Downs		1 5† 0	1 5† 0	1 10 0	2 0 0	3 3 0

For a Boat of a Class carrying an Anchor of above 4 Cwt., with a corresponding Tow-Line

In the River Thames above Gravesend

Ditto Ditto 2 Cwt.

Ditto Ditto under 2 Cwt.

And for each Man's Service in those Boats, 8s. per Tide.

£ s. d. 2 2 0

£ s. d. 1 1 0

£ s. d. 0 15 0

Per Trip for the whole distance from Gravesend to London; and in proportion for any Part of that Distance.

* When the pilot is put on board by a boat from the shore, one-seventh to the pilot, and the remaining six-sevenths to the boat and crew.

† Sic in printed act, *sed quare*.

IX. The Navigation Act.

- 3 & 4 Wil. 4, c. 54. By the 3 & 4 Wil. IV. c. 54, intituled "An Act for the Encouragement of British Shipping and Navigation," [28th August 1833,] reciting, "Whereas an act was passed in the sixth year of the reign of his late majesty, king George the Fourth, intituled 'An Act for the Encouragement of British Shipping and Navigation,' whereby the laws for the encouragement of British shipping and navigation were consolidated and amended: and whereas since the passing of the said act divers acts for the further amendment of the law have been found necessary, and it will be of advantage to the trade and commerce of the country that the said acts should be consolidated into one act;" it is enacted, "that this act shall commence upon the 1st day of September, 1833, except where any other commencement is herein particularly directed."
- 6 Geo. 4, c. 109. Commencement of act.
- Ships in which only enumerated goods of Europe may be imported. Sect. 2. "The several sorts of goods hereinafter enumerated, being the produce of Europe; (that is to say,) masts, timber, boards, tar, tallow, hemp, flax, currants, raisins, figs, prunes, olive oil, corn or grain, wine, brandy, tobacco, wool, shumac, madders, madder roots, barilla, brimstone, bark of oak, cork, oranges, lemons, linseed, rape seed, and clover seed, shall not be imported into the United Kingdom to be used therein, except in British ships, or in ships of the country of which the goods are the produce, or in ships of the country from which the goods are imported."
- Places from which only goods of Asia, Africa, or America may be imported. Sect. 3. "Goods, the produce of Asia, Africa, and America, shall not be imported from Europe into the United Kingdom, to be used therein, except the goods hereinafter mentioned: (that is to say,)
 'Goods the produce of the dominions of the emperor of Morocco which may be imported from places in Europe within the Straits of Gibraltar:
 'Goods, the produce of Asia or Africa, which (having been brought into places in Europe within the Straits of Gibraltar, from or through places in Asia or Africa within those Straits, and not by way of the Atlantic Ocean) may be imported from places in Europe within the Straits of Gibraltar.
 'Goods, the produce of places within the limits of the East India company's charter, which (having been imported from those places into Gibraltar or Malta in British ships) may be imported from Gibraltar or Malta:
 'Goods taken by way of reprisal by British ships:
 'Bullion, diamonds, pearls, rubies, emeralds, and other jewels or precious stones.'"
- Ships in which only goods of Asia, Africa, or America may be imported. Sect. 4. "Goods, the produce of Asia, Africa, or America, shall not be imported into the United Kingdom, to be used therein, in foreign ships, unless they be the ships of the country in Asia, Africa, or America, of which the goods are the produce, and from which they are imported, except the goods hereinafter mentioned; (that is to say,)
 'Goods, the produce of the dominions of the Grand Seigneur, in Asia or Africa, which may be imported from his dominions in Europe, in ships of his dominions:
 'Raw silk and mohair yarn, the produce of Asia, which may be imported from the dominions of the Grand Seigneur in the Levant Seas, in ships of his dominions.
 'Bullion.'"
- Manufacture deemed produce. From Guernsey, &c. Sect. 5. "Provided that all manufactured goods shall be deemed to be the produce of the country of which they are the manufacture."
 Sect. 6. "No goods shall be imported into the United Kingdom from the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships."
- Exports to Asia, &c., and to Guernsey, &c. Sect. 7. "No goods shall be exported from the United Kingdom to any British possession in Asia, Africa, or America, nor to the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships."

Sect. 8. "No goods shall be carried coastwise from one part of the United Kingdom to another, except in British ships."

Sect. 9. "No goods shall be carried from any of the islands of Guernsey, Jersey, Alderney, Sark, or Man, to any other of such islands, nor from one part of any of such islands to another part of the same island, except in British ships."

Sect. 10. "No goods shall be carried from any British possession in Asia, Africa, or America, to any other of such possessions, nor from one part of any of such possessions to another part of the same, except in British ships."

Sect. 11. "No goods shall be imported into any British possession in Asia, Africa, or America, in any foreign ships, unless they be the ships of the country of which the goods are the produce, and from which the goods are imported."

Sect. 12. "No ship shall be admitted to be a British ship unless duly registered and navigated as such; and that every British registered ship (so long as the registry of such ship shall be in force, or the certificate of such registry retained for the use of such ship) shall be navigated during the whole of every voyage, (whether with a cargo or in ballast), in every part of the world, by a master who is a British subject, and by a crew, whereof three fourths at least are British seamen; and if such ship be employed in a coasting voyage from one part of the United Kingdom to another, or in a voyage between the United Kingdom and the islands of Guernsey, Jersey, Alderney, Sark, or Man, or from one of the said islands to another of them, or from one part of either of them to another of the same, or be employed in fishing on the coasts of the United Kingdom or of any of the said islands, then the whole of the crew shall be British seamen."

Sect. 13. "Provided that all British-built boats or vessels under fifteen tons' burthen, wholly owned and navigated by British subjects, although not registered as British ships, shall be admitted to be British vessels, in all navigation in the rivers and upon the coasts of the United Kingdom, or of the British possessions abroad, and not proceeding over sea, except within the limits of the respective colonial governments within which the managing owners of such vessels respectively reside; and that all British-built boats or vessels wholly owned and navigated by British subjects, not exceeding the burthen of thirty tons, and not having a whole or a fixed deck, and being employed solely in fishing on the banks and shores of Newfoundland, and of the parts adjacent, or on the banks and shores of the provinces of Canada, Nova Scotia, or New Brunswick, adjacent to the gulf of St. Lawrence, or on the north of Cape Canso, or of the islands within the same, or in trading coastwise within the said limits, shall be admitted to be British boats or vessels, although not registered, so long as such boats or vessels shall be solely so employed."

Sect. 14. Provided that "all ships built in the British settlements at Honduras, and owned and navigated as British ships, shall be entitled to the privileges of British registered ships in all direct trade between the United Kingdom or the British possessions in America and the said settlements; provided the master shall produce a certificate under the hand of the superintendent of those settlements, that satisfactory proof has been made before him that such ship (describing the same) was built in the said settlements, and is wholly owned by British subjects; provided also, that the time of the clearance of such ship from the said settlements for every voyage shall be endorsed upon such certificate by such superintendent."

Sect. 15. "No ship shall be admitted to be a ship of any particular country, unless she be of the built of such country; or have been made prize of war to such country; or have been forfeited to such country under any law of the same, made for the prevention of the slave trade, and condemned as such prize or forfeiture by a competent court of such country; or be British built (not having been a prize of war from British subjects to any other foreign country); nor unless she be navigated by a master who is a subject of such foreign country, and by a crew of whom three-fourths at least are subjects of such country; nor unless she be wholly owned by subjects of

9. *The Navigation Act.*

3 & 4 Wil. 4, c. 54.

Coastwise.

Between Guernsey, Jersey, &c.

Between British possessions in Asia, &c.

Imports into British possessions in Asia, &c.

No ship British, unless registered, and navigated as such.

But vessels under fifteen tons' burthen admitted in navigation upon rivers, &c. although not registered.

Vessels under thirty tons for Newfoundland fishery, &c. need not be registered.

Honduras ships to be as British, in trade with United Kingdom and Colonies in America.

Ship of any foreign country to be of the built of, or prize to such country; or British-built, and owned and navigated by subjects of the country.

9. *The Navigation Act.*

3 & 4 Wil. 4, c. 54.

Master and seamen not British, unless natural-born, or naturalized, or denizens, or subjects by conquest or cession, or having served in H. M.'s ships of war.

Natives of India not to be British seamen.

One British seaman to twenty tons sufficient to constitute a proper crew.

Foreigners having served two years on board H. M.'s ships during war.

British ship not to depart British port unless duly navigated, &c.

If excess of foreign seamen, penalty 10*l.* for each; except British seamen cannot be procured in foreign ports or in India; or proportion destroyed unavoidably; and certificate produced or proof made.

Proportion of seamen may be altered by proclamation.

Goods prohibited only by naviga-

such country usually residing therein, or under the dominion thereof: provided always, that the country of every ship shall be deemed to include all places which are under the same dominion as the place to which such ship belongs."

Sect. 16. "No person shall be qualified to be a master of a British ship, or to be a British seaman within the meaning of this act, except the natural-born subjects of his majesty, or persons naturalized by any act of parliament, or made denizens by letters of denization; or except persons who have become British subjects by virtue of conquest or cession of some newly acquired country, and who shall have taken the oath of allegiance to his majesty, or the oath of fidelity required by the treaty or capitulation by which such newly acquired country came into his majesty's possession; or persons who shall have served on board any of his majesty's ships of war in time of war for the space of three years: provided always, that the natives of places within the limits of the East India Company's charter, although under British dominion, shall not, upon the ground of being such natives, be deemed to be British seamen: provided always, that every ship (except ships required to be wholly navigated by British seamen) which shall be navigated by one British seaman, if a British ship, or one seamen of the country of such ship, if a foreign ship, for every twenty tons of the burthen of such ship, shall be deemed to be duly navigated, although the number of other seamen shall exceed one fourth of the whole crew: provided always, that nothing herein contained shall extend to repeal or alter the provisions of an act passed in the fourth year of the reign of his late majesty king George the Fourth, for consolidating and amending the laws then in force with respect to trade from and to places within the limits of the East India Company's charter."

Sect. 17. Provided that "it shall be lawful for his majesty, by his royal proclamation during war, to declare that foreigners, having served two years on board any of his majesty's ships of war in time of such war, shall be British seamen within the meaning of this act."

Sect. 18. "No British registered ship shall be suffered to depart any port in the United Kingdom, or any British possession in any part of the world (whether with a cargo or in ballast), unless duly navigated: provided always, that any British ships, trading between places in America, may be navigated by British negroes, and that ships trading eastward of the Cape of Good Hope within the limits of the East India Company's charter may be navigated by Lascars, or other natives of countries within those limits."

Sect. 19. "If any British registered ship shall at any time have, as part of the crew in any part of the world, any foreign seamen not allowed by law, the master or owners of such ship shall for every such foreign seaman forfeit the sum of 10*l.*: provided always, that if a due proportion of British seamen cannot be procured in any foreign port, or in any place within the limits of the East India Company's charter, for the navigation of any British ship; or if such proportion be destroyed during the voyage by any unavoidable circumstance, and the master of such ship shall produce a certificate of such facts under the hand of any British consul, or of two known British merchants, if there be no consul at the place where such facts can be ascertained, or from the British governor of any place within the limits of the East India Company's charter; or, in the want of such certificate, shall make proof of the truth of such facts to the satisfaction of the collector and controller of the customs of any British port, or of any person authorized in any other part of the world to inquire into the navigation of such ship, the same shall be deemed to be duly navigated."

Sect. 20. "If his majesty shall, at any time by his royal proclamation, declare that the proportion of British seamen necessary to the due navigation of British ships shall be less than the proportion required by this act, every British ship navigated with the proportion of British seamen required by such proclamation shall be deemed to be duly navigated, so long as such proclamation shall remain in force."

Sect. 21. Provided that "goods of any sort or the produce of any place, not otherwise prohibited than by the law of navigation hereinbefore contained,

may be imported into the United Kingdom from any place in a British ship, and from any place not being a British possession in a foreign ship of any country, and however navigated, to be warehoused for exportation only, under the provisions of any law in force for the time being, made for the warehousing of goods without payment of duty upon the first entry thereof."

Sect. 22. "If any goods be imported, exported, or carried coastwise, contrary to the law of navigation, all such goods shall be forfeited, and the master of such ship shall forfeit the sum of 100*l*."

Sect. 23. "All penalties and forfeitures incurred under this act shall be sued for, prosecuted, recovered, and disposed of, or shall be mitigated or restored, in like manner as any penalty or forfeiture can be sued for, prosecuted, recovered, and disposed of, or may be mitigated or restored, under an act passed in the present session of parliament for the prevention of smuggling."

Sect. 24. "This act may be altered, varied, or repealed by any act or acts to be passed in this present session of parliament."

10. *Cordage for Shipping.*

3 & 4 Wil. 4, c. 54.

tion law may be imported for exportation.

Forfeitures, how incurred.

Recovery of forfeitures.

Act may be altered this session.

X. Cordage for Shipping.

By the 25 Geo. III. c. 56, s. 2, no person after the 25th July, 1785, shall use, in the making of cables, hawsers, or other ropes for the use of shipping, or knowingly sell the same, in the manufacturing whereof there shall be used any hemp, usually known by the name of short chucking, half clean, whale line, or other toppings, cordilla, damaged hemp bought at a public or other sales, or any hemp from which the staple part thereof shall have been taken away by the manufacturer, on pain of forfeiting (if he be the manufacturer thereof) such cable, hawser, or other rope, and treble the value thereof; and the vender thereof, knowingly, (and not being the manufacturer,) shall forfeit treble the value thereof.

25 Geo. 3, c. 56.

Short chucking, &c. not be used in making cordage for shipping.

By sect. 3 & 4, for better distinguishing the quality of such cables, &c. whenever the same shall be manufactured in whole or in part of any hemp, the use whereof is not prohibited by this act, and the quality whereof shall be inferior to clean Petersburg hemp, the same shall be deemed *inferior cordage*, and the maker shall distinguish the same by running from end to end of each cable three tarred mark-yarns, spun with turn contrary to that of rope yarn, and also one like tarred yarn in every other rope for the use of shipping; and shall mark or write on a tally to be affixed thereon the word *staple* or *inferior* (as the case shall be), and also his name signed by himself or his attorney, together with the name of the place where manufactured; in default thereof every such manufacturer shall for every offence forfeit 10*s*. for every hundred weight.

Cordage to be distinguished as *staple* and *inferior*.

And maker's name to be affixed.

Sect. 5. And if any rope-maker shall wilfully and knowingly permit or suffer his name to be put as aforesaid on the tally of any cable, &c. not being of his own proper manufacturing; or if the vender or proprietor of any such cable, &c., or any other person whomsoever, shall wilfully and knowingly mark upon the tally affixed thereon the name of any person, not being the manufacturer thereof, he shall forfeit 20*l*.

Penalty on putting a false name on cordage.

Sect. 6. And if any person shall make any cables of any old or worn stuff, which shall contain above seven inches in compass, he shall forfeit four times the value thereof.

Penalty on making cables of old stuff.

Sect. 8. And when any ship belonging to any of his majesty's subjects resident in Great Britain or in the British colonies shall come into any port in this kingdom, the master at the time of making his entry at the custom-house shall make entry on oath of all foreign made cordage on board, for which no duties have been paid (standing and running rigging in use excepted); and such master shall, before such ship be cleared inwards, where any discharge shall be made of her lading, pay for such foreign made cordage, as shall be specified or mentioned in the said entry, the like duties as by the laws now in being are charged upon foreign made cordage imported

Importing cordage.

Shire-Hall.

25 Geo. 3, c. 56.

Penalties how to
be recovered and
applied.

Appeal.

Proceedings not
to be quashed, nor
distress unlawful
for want of form.

Stores of war.

into this kingdom; and if such master shall make default herein, such foreign made cordage on board such ship shall be forfeited, and he shall also forfeit 20s. for every hundred weight thereof.

Sect. 9 & 10. But the same shall not extend to cordage brought from the East Indies, nor to the materials at present in the use of any ship built abroad before the passing of this act, the property of any British subject.

Sect. 7. All pecuniary penalties or forfeitures by this act imposed exceeding 5*l.* are to be recovered in the courts of Westminster; if not exceeding 5*l.* the same may be levied by distress, by one justice, on the oaths of *two* witnesses, and if sufficient distress cannot be found, such justice shall commit the offender to the common gaol or house of correction for any time not exceeding three calendar months, nor less than seven days, or until such penalty and all costs and charges attending the same shall be paid. And all such penalties and forfeitures, and also all cordage which shall be forfeited, shall be paid and delivered to the person who shall sue, who may sell or otherwise dispose of such cordage (after being cut into lengths not exceeding twelve feet) to his own use.

Sect. 11. Provided, that if any person shall think himself aggrieved by any thing done in pursuance of this act, and for which no particular method of relief is appointed, he may, within four months after such matter done, appeal to the sessions, giving fourteen days' notice, in writing, of his intention to appeal and the matter thereof to the person appealed against, and within four days after giving such notice, entering into recognizance before some justice for the county, city, or place, with two sureties, to try such appeal, and abide the order, and pay such costs as shall be awarded at such sessions; and on due proof of such notice, the justices at such sessions shall hear and finally determine such appeal, and award such costs as they shall think proper.

Sect. 12. And no order, verdict, judgment, or other proceeding shall be quashed for want of form only, or be removed by *certiorari*, or any other writ or process whatsoever; and where any distress shall be made, it shall not be deemed unlawful, nor the party making the same trespassers *ab initio* for want of form or any irregularity; but the persons aggrieved may recover damages in an action on the case, provided sufficient amends have not been made before action brought.

As to *stores of war*, see *post*, "*Stores*," Vol. V.

Shire-Hall.

4 Geo. 4, c. 64.

THE 4 Geo. IV. c. 64, repeals the 14 Geo. III. c. 59, relating to the ventilation of shire-halls or other courts of justice. See the new provisions, "*Gaols*," Vol. II.

7 Geo. 4, c. 63.

All acts com-
menced under
repealed act,
declared valid,
and may be com-
pleted under this
act.

The 7 Geo. IV. c. 63, s. 1, repeals the 9 Geo. III. c. 20.

Sect. 2 enacts, "that all acts, matters, and things relating to the building or repairing of shire-halls, county-halls, or other buildings, which shall have been commenced or done under or by virtue of the said act so hereby repealed, shall remain as good and valid, to all intents and purposes, as if this act had not been made; and that the clauses and provisions of this present act shall be applied and put in execution for the completing of the building or repairing of such shire-halls, county-halls, or other buildings, as if such acts, matters, and things had been commenced and done under the authority or according to the directions of this present act."

If justices, upon
presentments
made, shall deem
any shire-hall,
&c., insufficient,
or in want of

Sect. 3. "Whenever it shall appear to the justices at any general or quarter sessions of the peace, to be holden at any time after the passing of this act, in any county, riding, or division in England or Wales, by any presentment to be made by the grand jury at any assizes or great session or session of gaol delivery, or session of the peace, to be holden for any such

county, riding, or division, or by any presentment to be at any time made by any two or more justices of the peace in and for such county, riding, or division, and laid before the justices at any such general or quarter sessions of the peace, that any shire-hall, county-hall, or other building accustomedly made use of for holding the assizes, or grand or other sessions of the peace, or that any lodgings for the accommodation of his majesty's judges of assize in and for such county, riding, or division, shall be insufficient, inconvenient, deficient, or in want of repair or improvement, or that there is a necessity for the erection of a new shire-hall, county-hall, or other building, or of lodgings for his majesty's judges of assize, it shall and may be lawful for the justices assembled at the general or quarter sessions at which such presentment shall be laid before such justices, or at the then next general or quarter sessions, or adjournment thereof, for such county, riding, or division, and they are hereby required, to cause notice to be given three times at least in some public newspaper circulating within such county, riding, or division, of such report or presentment having been laid before them at such sessions, and of their intention to take the same into consideration at the next ensuing or some subsequent general or quarter sessions or adjournment thereof; and in case the justices at such last-mentioned sessions, or the major part of them, shall resolve that such report or presentment is well-founded, then it shall and may be lawful for such justices, and they are hereby required, at the sessions mentioned in such notice, or at some subsequent sessions or adjournment thereof, with the like notice, to take such measures, either by contract or otherwise, as shall appear to them to be requisite and proper for the altering, enlarging, repairing, or improving of any shire-hall, county-hall, or other building or lodgings as aforesaid, or for the pulling down of any such shire-hall, county-hall, or other building or lodgings, or any part thereof, and for the building of any new shire-hall, county-hall, or other building or lodgings of his majesty's judges, or any part thereof, in lieu of any building or any part of any building which shall be so pulled down, regard being had, in the case of contracts, to the reasonableness of the price and responsibility of the contractors; and every contractor shall give sufficient security for the due performance of his contract to the clerk of the peace for such county, riding, or division; and such contract may be inspected at all reasonable times by any justices, or by any other person contributing to the rate of such county, riding, or division, without fee or reward."

Sect. 4. "After such presentment and notice as aforesaid, it shall and may be lawful for the justices in general or quarter sessions assembled, or the major part of them, and they are hereby empowered, to purchase any houses, lands, tenements, or hereditaments for the purpose of enlarging, improving, or rendering more commodious, or for the building or rebuilding any shire-hall, county-hall, or other building or lodgings as aforesaid, or any part thereof, and to direct the property so purchased to be conveyed to such person or persons as the said justices shall think fit, in trust for the purposes aforesaid, under the regulations and directions in this act contained; and such houses, lands, tenements, or hereditaments shall, when inclosed and added to such shire-hall, county-hall, or other buildings or lodgings, be deemed and taken to be parts of such shire-hall, county-hall, or other building or lodgings, and to be within the county, riding, or division, to the use of which such shire-hall, county-hall, or other building or lodgings may be applied, to all intents and purposes whatever, so long as the same shall be used by such county, riding, or division, for the purposes of this act, and no longer."

Sect. 5. "In case any presentment shall be expressly made by any grand jury, that the place wherein any old shire-hall, county-hall or other building or lodgings as aforesaid, is situated, is improper, and that the shire-hall, county-hall, or other building or lodgings as aforesaid, ought, therefore, to be removed to some other place within the county, riding, or division, or in case any presentment shall be made by any grand jury, that any shire-hall, county-hall, or other building or lodgings as aforesaid, shall be in such a state that the same ought to be pulled down, and a new building erected, it shall be lawful for the justices at their general or quarter sessions assembled, and

Shire-Hall.

7 Geo. 4, c. 63.
repair, they shall give notice that the same will be considered at some future sessions, when they may take such measures as shall appear requisite for the purpose.

No fee.

Justices may purchase houses, &c., for the purpose of building or enlarging any shire-hall, &c.

Justices may remove the site of shire halls upon express presentment that the old shire-hall was unfit and inconvenient.

Shire-Hall.

7 Geo. 4, c. 63.

Distance from
site of old shire-
hall.

Sites of such
shire-halls may be
applied to the im-
provement of the
roads or streets,
&c.

How overplus
disposed of.

All matters per-
formed in new
shire-halls, &c.,
shall be as valid
as if done in the
old shire-halls,
&c.

* *Sic.*

Proviso as to
lodgings of the
judges at county
assizes.

Justices may or-
der occasional
repairs, and re-

they are hereby required to take such presentment into their consideration; and if it shall be resolved by the justices assembled at two successive general or quarter sessions, or the major part of them, that any old shire-hall, county-hall, or other building or lodgings as aforesaid, ought to be removed or pulled down, and that such new shire-hall, county-hall, or other building or lodgings as aforesaid, are necessary, it shall be lawful for the justices so assembled to contract for the building of a new shire-hall, county-hall, or other building, in any part of the county, riding, or division which they may deem most eligible, (not being more than one mile from the site of the shire-hall, county-hall, or other building, in lieu of which the same shall be built); and whenever the building of any court of justice is or shall be so attached to any shire-hall, county-hall, or other building, as to render it impracticable or inconvenient to repair, enlarge, improve, or rebuild the said shire-hall, county-hall, or other building, without also altering or pulling down the building of the said court, then and in such cases it shall be lawful for the justices in general or quarter sessions assembled to cause such courts to be altered or pulled down, or to be rebuilt, either on the same or on any other site, subject to the same provisions as are by this act appointed with respect to shire-halls, county-halls, or other buildings as aforesaid."

Sect. 6. Provided that "if the said justices so assembled in two successive general or quarter sessions shall see fit, it shall and may be lawful for such justices to give, grant, or convey gratuitously, the whole of the ground or soil of any such shire-hall, county-hall, or other building or lodgings as aforesaid, or any part or parts of the same respectively, for the purpose of widening, opening, or otherwise improving any road, street, way, or passage, or roads, streets, ways, or passages, in any county, riding, or division, or in any city or town, within or adjoining to which such shire-hall, county-hall, or other building or lodgings as aforesaid, shall be situate; and if the whole of such ground or soil shall not be necessary for making the improvement or improvements, then to sell or dispose of the residue thereof in manner herein provided."

Sect. 7. "All matters and things whatever, which might or ought to be lawfully done, performed, and executed in any shire-hall, county-hall, or other building, or in the lodging of his majesty's judges as aforesaid, which shall be wholly or in part pulled down, or the site of which shall be removed under the provisions of this act, shall and may be lawfully done, performed, and executed in any new shire-hall, county-hall, or other building or lodgings as aforesaid, which may be built, or rebuilt in the lieu and stead of any shire-hall, county-hall, or other building or lodgings so pulled down, or in any shire-hall, county-hall, or other building or lodgings which shall be built, rebuilt, repaired, or enlarged, in lieu of any part of any former shire-hall, county-hall, or other building or lodgings, in lieu of or* addition to any part of any former shire-hall, county-hall, or building or lodgings as aforesaid; and that all matters and things done, performed, or executed, in such new shire-hall, county-hall, or other building or lodgings, shall be as good, valid, and effectual to all intents and purposes, whatever, as if they had been done, performed, and executed in such former shire-hall, county-hall, or other building or lodgings as aforesaid."

Sect. 8. "Whenever the courts of assize, *nisi prius*, oyer and terminer, or gaol delivery, for any county at large in England, shall be held in or near any city or town which is also a county of itself, and at the same time with the like or any of the like courts for the said city or town, the lodgings of the judge or judges shall be construed and taken to be situate both within the county at large, and also within the county of such city or town, for the purpose of transacting the business of the assizes for such county at large, and for the county of such city or town during the time that such judge or judges shall continue therein for the execution of their several commissions."

Sect. 9. Provided that "in case it shall at any time happen that any such shire-hall, county-hall, or other building or lodging shall be injured by means of fire or any sudden accident, between the several times of holding the general

or quarter sessions for such county, riding, or division, it shall and may be lawful for any two or more justices of the peace for such county, riding, or division, to make an order that such repairs shall be immediately done and made, as may be necessary and sufficient for the upholding of any such shire-hall, county-hall, or other building or lodgings; and such order of such two justices, together with an account of any proceedings which may have taken place in consequence thereof, shall be laid before the next court of general or quarter sessions to be holden for such county, riding, or division; and it shall be lawful for such court, and such court is hereby authorized and required, to order the payment of such sum or sums of money as in the opinion of such court shall appear to have been properly expended in such repairs as aforesaid."

Shire-Hall.

7 Geo. 4, c. 63.

port same to sessions.

Sect. 10. "When it shall appear that the amount of any estimate approved by the justices for the building or re-building, repairing, improving, or enlarging any shire-hall, county-hall, or other building or lodgings as aforesaid, under the powers of this act, shall exceed one-half of the amount of the ordinary annual assessment for the rate of any county, riding, or division, (such ordinary assessment to be taken on an average of such rate for the last seven years preceding), it shall and may be lawful for the justices in quarter sessions assembled, from time to time to borrow and take up, on mortgage of such rate, by instrument in the form contained in the schedule to this act annexed, marked (A.), or to the like effect, any sum of money not exceeding the amount of such estimate, in sums not less than 50*l.* each, at interest, as to the said justices shall appear necessary and expedient for the purposes aforesaid, and to secure every such sum of money so borrowed upon the credit of the said rates; and it shall and may be lawful for the justices so assembled, and they are hereby authorized to treat and agree with any person for the loan of any such sums of money, and by their order to confirm every such agreement; and every such agreement signed by the chairman and two or more other justices present at the time of making such order, shall be, and the same is hereby declared to be, effectual for securing every sum of money so advanced, with interest thereon, to the person or persons advancing the same on such terms as in and by such agreement shall be stipulated, and copies or extracts of all such agreements shall be kept by the clerk of the peace; and it shall and may be lawful for every person who shall be entitled to the money thereby secured, and such person is hereby empowered, by indorsing his name on the back of such security, to transfer the same, and his right to the principal money and interest thereby secured, unto any other person; and every such assignee may in like manner transfer the same again, and so *toties quoties*; and the person to whom such security or any such assignment thereof shall be made, and his executors, administrators, and assigns, shall be creditors upon the said rate in an equal degree one with another, and shall not have any preference with respect to the priority of any monies so advanced."

When amount of estimate for building exceeds one half of annual county rate, justices may borrow money on mortgage of the rates.

In what case agreement effectual.

Copies kept by clerk of peace.

Sect. 11. "It shall and may be lawful for the said justices, and they are hereby authorized and required, to charge the rate to be raised upon such county, riding, or division, not only with the interest of the money so borrowed, but also with the payment of such further sum as shall ensure the payment of the whole sum borrowed within fourteen years from the time of borrowing the same; and such sums shall be assessed on the county, riding, or division, in such manner as county rates are directed to be assessed under the laws in force for that purpose, and shall be paid and applied under the direction of the justices, in discharge of the interest, and of so many of the principal sums on the said securities as such money will extend to discharge in each year, until the whole of the money for which such securities shall be made, and the interest thereof, shall be fully paid and discharged; and the justices shall, and they are hereby required to fix one or more day or days in each year on which such payment shall be made, and shall make orders for assessments in due time, so as to provide for the regular payment thereof; and such justices shall also, and they are hereby required to appoint a proper person to keep an exact and regular account

Justices may charge county rates with interest on money borrowed, and form a sinking fund to repay the whole as herein mentioned.

Books to be kept of receipts and payments.

Shire-Hall.

7 Geo. 4, c. 63.

Neglecting to
perform act.

Penalty.

Powers of 6 Geo.
4, c. 40, applied to
this act.Persons or dis-
tricts liable to
repair or furnish
shire-halls, &c.
shall continue so
liable.Powers of 4 Geo.
4, c. 64, extended
to this act.

of all the receipts and payments under the authority of this act, in a book or books, separate and apart from all other accounts, and the same to adjust and settle in such manner that it may easily be seen what interest is growing due, and what principal money has been discharged, and what remains due, and the books or book so adjusted and settled to deliver into court at every general or quarter sessions to be held for such county, riding, or division; and the justices shall also, and they are hereby required at every such sessions carefully to inspect all such accounts, and to make orders for carrying the purposes of this act into execution, in such manner as to them shall seem meet; and if at any time it shall appear to the justices that the person appointed for the purposes aforesaid has neglected to perform any matter or thing required by this act, or by the order of such justices, or has not duly and without delay applied all money in his hands to the purposes directed by this act, such person shall forfeit a sum equal to one-half the amount of the money which shall not have been applied to the purposes of this act; and the justices so assembled in sessions as aforesaid shall direct in what order such securities shall be discharged, by drawing lots or otherwise, as they shall think fit, taking care to discharge, in the first place, all such securities as shall bear the highest rate of interest."

Sect. 12. "An act made in the sixth year of his present majesty's reign, intituled 'An Act to enable Justices of the Peace in England, in certain Cases, to borrow Money on Mortgage of the Rate of the County, Riding, or Place for which such Justices shall be then acting,' and the several clauses, powers, and provisions in the said recited act contained, relating to the paying off of any debt or debts, and the borrowing of any money for such purpose, shall and may be applied in the paying off any money borrowed under the provisions of this act, as fully and effectually as if such clauses, powers, and provisions were repeated and re-enacted in this act."

Sect. 13. Provided that "in cases where any shire-hall, county-hall, or other building, accustomedly made use of for holding the assizes or great or other sessions, or any lodgings for the accommodation of his majesty's judges of assize, in any county, riding, or division in England or Wales, hath for time out of mind been maintained, repaired, or provided at the expense of any particular person or persons, or of any riding or ridings, division or divisions, or part or parts of any county or shire, or city or town corporate, such shire-hall, county-hall, or other building or lodgings, shall continue to be maintained, repaired, or provided at the expense of the person or persons so liable thereto, or at the expense of such riding or ridings, or division or divisions, or part or parts of any county, or city, or town corporate, so liable thereto, in like manner as heretofore, to all intents and purposes whatever, any thing in this act to the contrary in anywise notwithstanding; and that all cities, towns, boroughs, corporations, rapes, lathes, wapentakes, ports, parishes, townships, or other places or divisions, and all and every person and persons, and body or bodies politic or corporate, which shall by law or ancient usage be bound or obliged to maintain, repair, or provide any such shire-hall, county-hall, or other building or lodgings as aforesaid, or to furnish and provide the same with benches, tables, rails, or other fixtures or furniture, and to keep the same in repair, shall continue and be bound and obliged so to do; and all and every sum and sums of money to be laid out in rebuilding, repairing, maintaining, providing, or furnishing any shire-hall, county-hall, or other building or lodgings as aforesaid, for the rebuilding, repairing, maintaining, providing, or furnishing of which any riding, division, or part of any county or shire, city, or town corporate, person or persons, body or bodies politic or corporate, shall be bound to provide as aforesaid, shall be procured or provided by, assessed and rated on, and levied and collected by such riding, division, or other part of such county or shire, city, or town corporate, person or persons, body or bodies politic or corporate, and not on the county at large; any thing hereinbefore contained to the contrary in anywise notwithstanding."

Sect. 14. "That all the clauses, powers, and provisions contained in an act passed in the fourth year of the reign of his present majesty, intituled

'An Act for consolidating and amending the Laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales,' with relation to the sale, purchase, and conveyance of houses, lands, tenements, or hereditaments, by any person or persons, or body or bodies politic or corporate, or by any guardians, committees, husbands, trustees, or attorneys of infants, lunatics, idiots, or persons under coverture or any other disability, and with relation to the valuation of such houses, lands, tenements, or hereditaments, and the application of the money for such purchase, shall, so far as the same are or can be applicable, be applied and extended to the sale and purchase, conveyance and valuation of houses, lands, tenements, or hereditaments, for the purposes of this act, in as full and ample a manner, to all intents and purposes, as if such clauses, powers, and provisions had been repeated and re-enacted in this act."

Shire-Hall.

7 Geo. 4, c. 63.

Sect. 15. "In case it shall appear to the justices of the peace assembled at any general or quarter session of the peace holden for any county, riding, or division, that by reason of any shire-hall, county-hall, or other building or lodgings as aforesaid, for such county, riding, or division, having been lately built or considerably enlarged, any other shire-hall, county-hall, or other building or lodgings within such county, riding, or division, shall have become unnecessary, it shall be lawful for such justices, or for the justices assembled at the then next general or quarter sessions to be holden for the same county, riding, or division, and they are hereby authorized, empowered, and required to order notice to be given three times at least in some public newspaper circulating in such county, riding, or division, that the propriety of selling such unnecessary shire-hall, county-hall, or other building or lodgings as aforesaid, will be taken into consideration at the next ensuing general or quarter sessions; and in case the justices at such last-mentioned session, or the majority of them, shall resolve that such unnecessary shire-hall, county-hall, or other building or lodgings ought to be sold, then and in that case it shall be lawful for such justices, and they are hereby authorized and empowered to take such measures for selling such shire-hall, county-hall, or other building or lodgings, together with all out-houses, land, tenements, and hereditaments to the same belonging (unless such building, out-houses, land, tenements, or hereditaments, or any part thereof, shall be the property of his majesty, his heirs, or successors, or of any city or town corporate, body or bodies politic or corporate, or of any private individual), for the best price or prices that can be obtained for the same, either by public auction or private contract, and subject to such conditions and in such manner as such justices shall think proper."

Sale of former
shire-halls or
lodgings.Notice of selling
the same.

Sect. 16. "Whenever a sale of any shire-hall, county-hall, or other building or lodgings as aforesaid, shall be made pursuant to the directions in this act contained, the purchase-money for the same shall be paid to the treasurer of such county, riding, or division, and it shall be lawful for the trustees or trustee (if any) of every such shire-hall, county-hall, or other building or lodgings as aforesaid, together with the clerk of the peace of such county, riding or division, to convey such shire-hall, county-hall, or other building or lodgings as aforesaid, with the out-houses, land, tenements, and hereditaments thereto belonging, unto and to the use of the purchaser thereof, and to the heirs and assigns of such purchaser, or to such uses as such purchaser or purchasers shall direct or appoint; and every such conveyance, together with the treasurer's receipt for the purchase-money, shall give a good and valid title to the purchaser; and the purchase-money shall be applied by the treasurer towards discharging the expense which shall have been incurred in building, enlarging, or improving any shire-hall, county-hall, or other building or lodgings as aforesaid for the same county, riding, or division, or in aid of any rate of such county, riding, or division, as the justices of the peace for such county, riding, or division, in general or quarter session assembled shall direct."

Shire-halls, &c.,
when sold, to be
conveyed by the
trustees, &c., to
purchaser.Application of
purchase-money.

Sect. 17. Provided that "whenever, in the event of any sale being agreed upon in pursuance of this act, it shall appear to the justices by whom the

Clerk of peace
may convey.

Shire-Hall.

7 Geo. 4, c. 63.

* *Sic.*

No enrolment of bargain and sale necessary.

Powers of 5 Geo. 4, c. 12, applied to this act.

Not to authorize sale of halls belonging to cities, &c.

Recovery and application of fines and penalties.

If no distress, imprisonment.

In actions for executing act, general issue.

Treble costs.

Form of mortgage and charge upon the county rate, for securing money borrowed.

resolution for making such sale shall be entered into, that the lands, tenements, or hereditaments to be sold have never been vested in any trustee or trustees, or that the trustee or trustees thereof are dead, and that there is difficulty in ascertaining the surviving trustee *, it shall appear that such heir or heirs is or are under any disability, then and in any such case it shall be lawful for the said justices to order that a conveyance of such lands, tenements, or hereditaments shall be made and executed by the clerk of the peace to the purchaser thereof, and in such case a conveyance thereof by the clerk of the peace, by indenture of bargain and sale (of which no enrolment shall be necessary), shall be valid and effectual to all intents and purposes."

Sect. 18. "All the powers and provisions contained in an act of the fifth year of the reign of his present majesty, intituled 'An Act to facilitate, in those Counties which are divided into Ridings or Divisions, the Execution of an Act of the last Session of Parliament, for consolidating and amending the Laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales,' shall extend to the several matters and things required by this act to be done by the justices of the peace at any general quarter session of the peace, in as full and ample a manner as if the same had been inserted in and made part of this act."

Sect. 19. "The powers in this act contained shall not extend or be construed to extend to any halls or other buildings not belonging to and not being the property of counties, ridings, or divisions of counties, or holden in trust for them, but which belong to and are the property of cities and towns corporate, although such halls and other buildings may have been accustomably made use of for holding the assizes or great or other sessions of the counties, ridings, or divisions wherein they are respectively situate."

Sect. 20. "All fines, forfeitures, and penalties imposed by this act shall, on conviction of the offender before any one justice of the peace within his jurisdiction, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice of the peace, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same; and all such fines, forfeitures, and penalties shall be paid from time to time to the treasurer of the county, riding, division, district, city, town, or place for the time being, and shall be applied and disposed of in aid of any rate applicable to the use of any such county, riding, division, district, city, town, or place, and to or for no other use or purpose whatsoever; and for want of sufficient distress the offender shall be committed to the common gaol or house of correction for any such term or time, not exceeding three calendar months, as such justice shall think proper."

Sect. 21. "If any suit or action shall be prosecuted against any person for any thing done in pursuance of this act, such person may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done by authority of this act; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue his or her action after issue joined, or if upon demurrer, or otherwise, judgment shall be given against the plaintiff, the defendant shall recover treble costs, and have the like remedy for the same as any defendant hath by law in other cases; and if a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereon."

Schedule (A.) to which this Act refers.

"We, A. B., one of his majesty's justices of the peace, and chairman of the court of quarter sessions of the peace holden at _____, on the _____ day of _____, for the county, &c. of _____ [as the case may be], C. D. and E. F., Esquires, two other of his majesty's justices of the peace acting for the said county, &c., and

assembled in the said court, in pursuance of the powers to us given by an act passed in the seventh year of the reign of his majesty King George the Fourth, intituled, &c. [insert the title of this act], do hereby in open court mortgage and charge all the rates to be raised within the said county, &c. [as the case shall be], under the description of county rates, by the laws now in being, with the payment of the sum of , which G. H., of , hath proposed and agreed to lend, and hath now actually advanced and paid towards defraying the expenses of building, repairing, &c. [as the case shall be], the shire-hall, county-hall, or other buildings or judges' lodgings [as the case shall be], for the said county, &c.; and we do hereby assign the same unto the said G. H., his executors, administrators, and assigns, for securing the payment of the sum of , and interest for the same, after the rate of per centum per annum, and do order the treasurer for the said county, &c., or other person [as the case shall be], to pay the interest of the sum of half-yearly, as the same shall become due, until the principal shall be discharged, pursuant to the directions of the said act."

Silks.

7 Geo. 4, c. 63.

Shoemakers. See "*Excise*," Vol. II.; "*Leather*," Vol. III.; "*Servants*," ante, p. 542.

Shooting. See "*Malicious Injuries to Persons*," Vol. III.; *In case of Smuggling*, see "*Excise*," Vol. II.

Shops, Breaking into, see "*Burglary*," Vol. I.; *Stealing in*, see "*Larceny*," Vol. III. p. 678; *Setting fire to*, see "*Burning*," Vol. I.; *Riotously demolishing*, see ante, "*Riot*."

Shrubs. See "*Trees*."

Silks.

FOR sundry matters relating to silks and calicoes, see the article *Linen Cloth*, in title "*Excise*," Vol. II.

Concerning servants and other workmen in the silk manufactories, see *Workmen*, title "*Servants*," ante, p. 506. The 10 Geo. IV. c. 52, extends the powers and provisions of the 4 Geo. IV. c. 34, to all persons engaged in the silk manufactories. See the provisions, "*Servants*," ante, p. 506.

As to malicious injuries to silks and manufactures, see the 7 & 8 Geo. IV. *Offences*, c. 30, s. 3; "*Malicious Injuries to Property*," Vol. III.

As to stealing from silk manufactories, see "*Larceny*," Vol. III. p. 679.

No person shall exercise the trade of a silk-thrower unless he hath served seven years' apprenticeship; on pain of 40s. a month, half to the king, and half to him that shall sue in any court of record, or at the assizes, or quarter sessions of the peace. (13 & 14 Car. II. c. 15, s. 2.)

The 10 Geo. IV. c. 33, regulates the importation of and the duties payable on silks; and see 7 Geo. IV. c. 53. Importation and duties.

The 9 & 10 Wil. III. c. 43, relating to the importation of foreign silks, called alamodes or lute-strings, is no longer in force. It was made perpetual by the 48 Geo. III. c. 22, but that act was repealed by the 6 Geo. IV. c. 105, as was also the 3 Geo. III. c. 21, and 5 Geo. III. c. 48.

Similiter. See ante, "Replication."

Simple Larceny. See "Larceny."

Slander.

[3 Edw. I. c. 34; 2 Rich. II. st. 1, c. 5; 12 Rich. II. c. 11.]

Written slander.

Verbal slander.

How far an object
of criminal juris-
diction.

*Scandalum mag-
natum.*

Slandering a jus-
tice.

AS to written slander, see "*Libel*," Vol. III.

As to what is verbal slander, and the civil remedies for the same and other laws relating thereto, see the *Treatises* by Mr. Starkie, Mr. Mence, and Mr. Holt. See also *Selwyn's Nisi Prius*, title *Slander*, 3 *Bla. Com.* by Chitty, 123, &c.

I do not find it any where clearly settled how far slander or scandalous words become objects of the criminal jurisdiction, and so cognizable before justices of the peace, by reason of the different circumstances in matters of so intermediate a nature; for the same words, when spoken of different persons, and even of the same person, with a different emphasis and manner of delivering them, may receive a very different interpretation.

In general, it seemeth, that words which directly tend to a breach of the peace, as if one man challenge another, are cognizable before justices of the peace; for which the party may be bound to the good behaviour, and even indicted. (*R. v. Wrightson*, 2 *Salk.* 698; *R. v. Executors of Summers*, 1 *Keb.* 931.)

But if they do not tend directly to a breach of the king's peace, but are matters only of private slander between party and party, which no way affect the public administration of justice, as in case where the common people are wont to call one another knaves and rogues and whore and thieves, I do not find it asserted by any good authority that justices of the peace have any jurisdiction at all in such matters; but the proper remedy seems to be in one of these two ways, either by a prosecution in the spiritual court, or by an action upon the case at the common law. See "*Libel*," Vol. III.

There is one species of slander, of which the law takes a more special notice; and that is, when it relates to the great men of the realm, concerning whom it is enacted, by the 3 Edw. I. c. 44, 2 Rich. II. st. 1, c. 5, and 12 Rich. II. c. 11, "that none shall tell or publish any false news or tales, whereby discord, or occasion of discord, or slander, may grow between the king and his people, or the great men of the realm; and that none shall devise, speak, or tell any false news or lies of any prelates, lords, judges, or other great men of the realm, whereof any discord or slander may arise; on pain of imprisonment, until he hath brought into court the first author of the tale; if he cannot find the author, he shall be punished by advice of council."

Publish any false News or Tales.]—But this extends only to extra-judicial slanders; for, if a man charge them in due course of law, although the charge be false, yet there will lie no action *de scandalis magnatum*, neither at common law nor by the statutes. (2 *Inst.* 328.)

As to slandering a justice of the peace in the execution of his office, see "*Justices*," Vol. III. p. 571.

Slaughter-Houses. See "*Horses*," Vol. III.

Slave-Trade and Slavery.

[5 Geo. IV. c. 113; 1 Wil. IV. c. 54; 3 & 4 Wil. IV. c. 73, 74; 5 & 6 Wil. IV. c. 45; 6 Wil. IV. c. 5; 6 & 7 Wil. IV. c. 81, 82.]

THE 5 Geo. IV. c. 113, 3 & 4 Wil. IV. c. 73 & 74, 5 & 6 Wil. IV. c. 45, 6 Wil. IV. c. 5, and 6 & 7 Wil. IV. c. 81, 82, relate to the abolition of slavery.

By 5 Geo. IV. c. 113, s. 9, dealing in slaves on the high seas, &c. shall be deemed piracy. See "*Piracy*," ante, p. 199.

Sect. 10. "That (except in such special cases as are in and by this act permitted, or otherwise provided for) if any person shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves, or shall, otherwise than as aforesaid, carry away or remove, or contract for the carrying away or removing of slaves, or other persons, as or in order to their being dealt with as slaves; or shall import or bring, or contract for the importing or bringing, into any place whatsoever, slaves or other persons, as or in order to their being dealt with as slaves; or shall, otherwise than as aforesaid, ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves, or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects, employed, or to be employed, in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security for agents employed, or to be employed in accomplishing any of the objects or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, or in any other manner to engage, or to * contract to engage, directly or indirectly therein, as a partner, agent, or otherwise; or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transshipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects, to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat, is actually employed, or is in the same voyage, or upon the same occasion, in respect of which they shall so take the charge or command, or navigate, or enter and embark, or contract so to do, as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully insure, or contract for

Persons dealing in slaves, or exporting or importing slaves;

or shipping slaves in order to exportation or importation;

or fitting out slave-ships;

or embarking capital in the slave-trade;

or guaranteeing slave adventures;

* Sic.

or shipping goods, &c., to be employed in the slave trade;

or serving on board slave-ships as captain, master, &c., surgeon, &c.

or insuring slave adventures;

Slave Trade and Slavery.

or forging instruments relating to the slave laws,

declared guilty of felony, &c.

Nothing herein shall prevent persons from purchasing slaves in any island, &c. belonging to his majesty, provided such slaves shall be employed in the same island, &c.

Process and trial.

Bounties on seizure of.

Abolition of slavery, and compensation to former slave owners.

the insuring of any slaves, or any property or other subject matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of valuation, sentence, or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this act), or any part of such certificate, certificate of valuation, sentence, or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same knowing it to be forged or counterfeited, with intent to defraud his majesty, his heirs, or successors, or any other person or persons whatsoever, or any body politic or corporate; then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors shall be, and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted."

Sect. 13. "Nothing in this act contained shall prevent or be construed to prevent any persons from dealing or trading in, purchasing, selling, bartering, or transferring, or from the contracting for the dealing or trading in, purchase, sale, barter, or transfer of any slaves or slave lawfully being within any island, colony, dominion, fort, settlement, factory, or territory belonging to or in the possession of his majesty, in case such dealing or trading, purchase, sale, barter, transfer, or contract shall be made and entered into, with the true intent and purpose of employing or working such slaves or slave within such and the same island, colony, dominion, fort, settlement, factory, or territory, in which they, he, or she, may lawfully be, at the time of the making or entering into any such dealing or trading, purchase, sale, barter, transfer, or contract."

Sect. 50. "All offences committed against this act may be inquired of, tried, determined, and dealt with, as if the same had been respectively committed within the body of the county of Middlesex."

By the 1 Wil. IV. c. 55, the rate of bounties payable upon the seizure of slaves is reduced.

Statutes 3 & 4 Wil. IV. c. 73, 5 & 6 Wil. IV. c. 45, 6 Wil. IV. c. 5, and 6 & 7 Wil. IV. c. 81, 82, further the abolition of slavery, and give compensation to former slave owners.

Sluice. See "*Rivers.*"

Smuggling. See "*Excise,*" Vol. II.

Snares. See "*Game,*" Vol. II.

Snuff. See "*Tobacco,*" *post.*

Soap. See "*Excise,*" Vol. II.

Sodomy. See "*Buggery,*" "*Assault,*" Vol. I.; *post,* "*Robbery,*" "*Threats,*" Vol. VI.

Soldiers. See "Military Law," Vol. III.; "Killing Game," see "Game," Vol. II.

Solicitations to Commit Offences. See "Attempts," Vol. I.

Son Assault. See "Assault," Vol. I.

South Sea Bonds. *Stealing of,* see "Larceny," Vol. III.

Sovereigns. See "Coin," Vol. I.

Special Case. See "Sessions," ante, p. 617.

Spirituous Liquors—*As to the Excise on,* see "Excise," Vol. II.
Hawking of—see "Hawkers," Vol. III. *Selling in small Quantities*—see "Alchouse," Vol. I. p. 112. *Selling in Gaols*—see "Gaols," Vol. II.

Spring-Guns.

AS to the common-law right to set spring-guns, &c., see "Game," Vol. II. Right to set.

By the 7 & 8 Geo. IV. c. 18, s. 1, reciting, "whereas it is expedient to prohibit the setting of spring-guns and man-traps, and other engines calculated to destroy human life, or inflict grievous bodily harm," it is enacted, "that from and after the passing of this act, if any person shall set or place, or cause to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life, or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, the person so setting or placing, or causing to be set or placed, such gun, trap, or engine as aforesaid, shall be guilty of a misdemeanor." 7 & 8 Geo. 4, c. 18.

Sect. 2. Provided that "nothing herein contained shall extend to make it illegal to set any gin or trap such as may have been or may be usually set with the intent of destroying vermin." Persons setting or placing spring guns, man traps, &c., guilty of a misdemeanor.

Sect. 3. "If any person shall knowingly and wilfully permit any such spring-gun, man-trap, or other engine as aforesaid, which may have been set, fixed, or left in any place then being in or afterwards coming into his or her possession or occupation, by some other person or persons, to continue so set or fixed, the person so permitting the same to continue shall be deemed to have set and fixed such gun, trap, or engine, with such intent as aforesaid." Persons permitting guns, traps, &c. set by others, to continue, deemed to have set the same.

Sect. 4. Provided that "nothing in this act shall be deemed or construed to make it a misdemeanor, within the meaning of this act, to set or cause to be set, or to be continued set, from sunset to sunrise, any spring-gun, man-trap, or other engine which shall be set, or caused or continued to be set, in a dwelling-house, for the protection thereof." Proviso for guns, traps, &c., set for the protection of dwelling-houses.

Sect. 5. Provided that "nothing in this act contained shall in any manner affect or authorize any proceedings in any civil or criminal court, touching any matter or thing done or committed previous to the passing of this act." Not to affect proceedings already commenced.

Sect. 6. Provided that "nothing in this act contained shall extend or be construed to extend to that part of the United Kingdom called Scotland." Not to extend to Scotland.

**Stage Coaches
and Post
Horses.**

Indictment for
unlawfully setting
a spring-gun.

— (venue). *The jurors for our lord the king upon their oath present, that C. D., late of the parish of , in the county of , labourer, on the day of , A. D. , with force and arms, at the parish of , in the county of , knowingly and unlawfully did set and place, and cause to be set and placed, in a certain garden of him the said C. D., there situate, a spring-gun, being an engine calculated to inflict grievous bodily harm, the same being then and there loaded with gunpowder and leaden shot, with intent then and there that the same might inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add a second count, inserting the words "whereby the same," instead of the words "with intent that the same."]*

Squibs. See "**Fireworks**," Vol. II.

Stabbing. See "**Malicious Injuries to Persons**," Vol. III.;
"**Homicide**," Vol. III.

Stage Coaches and Post Horses.

[2 & 3 Wil. IV. c. 120; 3 & 4 Wil. IV. c. 48; 6 & 7 Wil. IV. c. 45; 6 & 7 Wil. IV. c. 65.]

AS to carriers and their liabilities, &c., see "**Carriers**," Vol. I.

As to the tolls of stage coaches, see "**Highways, Turnpike**," Vol. III., p. 232 to 255.

As to the liability of an innkeeper to furnish post horses, see "**Alchouse**," Vol. I., p. 108.

As to the rates of carriage of parcels, &c., see "**Carriers**," Vol. I., p. 578.

As to stating the proprietorship of partners in stage coaches, see "**Indictment**," Vol. III., p. 428.

As to the place of trial where offences are on borders of counties, &c., see "**Indictment**," Vol. III., p. 415.

2 & 3 W. 4, c. 120.

By stat. 2 & 3 Wil. IV. c. 120, intituled "*An Act to repeal the Duties under the management of the Commissioners of Stamps on Stage Carriages and on Horses let for hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto*," [16th August, 1832,] reciting, "Whereas it is expedient to repeal the duties under the management of the commissioners of stamps in respect of stage carriages and of horses let for hire in Great Britain, and to grant other duties in lieu thereof, and also to consolidate and amend the laws now in force relating to such stage carriages and horses as aforesaid respectively;" it is enacted, "that the several acts and parts of acts next hereinafter mentioned, or so much and such part and parts thereof as are now in force, shall respectively remain and continue in force until and upon the 10th day of October in the year of our Lord 1832, and shall from thenceforth respectively cease, determine, and be repealed; (that is to say,) an act passed in the twenty-fifth year of the reign of his late majesty king George the Third, intituled '*An Act for repealing the Duties on Licences taken out by Persons letting Horses for the purpose of travelling post, and on Horses let to hire for travelling post and by time, and on Stage Coaches, and for granting other Duties in lieu*

Certain acts and
parts of acts re-
pealed after 10th
October 1832;
viz.

25 Geo. 3, c. 51.

thereof, and also additional Duties on Horses let to hire for travelling post and by time ;' and so much of an act passed in the forty-fourth year of the reign of his said late majesty, intituled ' An Act to repeal the several Duties under the Commissioners for managing the Duties upon stamped Vellum, Parchment, and Paper in Great Britain, and to grant new and additional Duties in lieu thereof,' as relates to the painting upon every carriage to be employed as a public stage coach or carriage for the purpose of conveying passengers for hire to and from different places in Great Britain certain words in the last-recited act mentioned, and to the number of inside passengers to be carried in any such carriage ; and the whole of an act passed in the fiftieth year of the reign of his said late majesty, intituled ' An Act to repeal three Acts made in the twenty-eighth, thirtieth, and forty-sixth years of his present Majesty, for limiting the number of Persons to be carried on the outside of Stage Coaches or other Carriages, and to enact other Regulations for carrying the objects of the said Acts into effect ;' and so much of an act passed in the fifty-third year of the reign of his said late majesty, intituled ' An Act for altering, explaining, and amending an Act of the forty-eighth year of his Majesty's reign, for granting Stamp Duties in Great Britain with regard to the Duties on re-issuable Promissory Notes, and on Conveyances on the Sale and Mortgage of Property ; for better enabling the Commissioners of Stamps to give relief in cases of spoiled Stamps, and to remit Penalties ; for exempting certain Instruments from Stamp Duty ; and for better securing the Duties on Stage Coaches,' as relates to the duties granted on coaches and other carriages employed as public stage coaches, or carriages for conveying passengers for hire, and on licences for keeping the same ; and also so much of the said last-recited act as relates to the time of granting such licences, or of their continuing in force ; and so much of an act passed in the fifty-fifth year of the reign of his said late majesty, intituled ' An Act for repealing the Stamp-office Duties on Advertisements, Almanacs, Newspapers, Gold and Silver Plate, Stage Coaches, and Licences for keeping Stage Coaches, now payable in Great Britain, and for granting new Duties in lieu thereof,' as relates to the duties on stage coaches and on licences for keeping stage coaches, and as relates to the offences in the said act mentioned respecting such duties and licences ; and also so much of the said last-recited act as relates to licences to be taken out by the owners of hackney coaches employed as stage coaches, and to the owners or drivers of stage coaches taking up passengers in manner by the said last-recited act allowed ; and the whole of an act passed in the third year of the reign of his late majesty king George the Fourth, intituled ' An Act to reduce the rate of Duties payable in respect of certain Carriages used and employed for the purpose of conveying Passengers for hire, and to make regulations and provisions relating to Stage Coaches and the Duties thereon ;' and the whole of an act passed in the seventh year of the reign of his said late majesty king George the Fourth, intituled ' An Act to make further regulations relating to the licensing of Stage Coaches ;' and so much of an act passed in the ninth year of the reign of his said late majesty king George the Fourth, intituled ' An Act to amend the Laws in force relating to the Stamp Duties on Sea Insurances, on Articles of Clerkship, on Certificates of Writers to the Signet, and of Conveyancers and others, on Licences to Dealers in Gold and Silver Plate and Pawnbrokers, on Drafts on Bankers, and on Licences for Stage Coaches in Great Britain, and on Receipts in Ireland,' as relates to stage coaches or other carriages kept, used, or employed to convey passengers for hire, or to the recovery of any fine, penalty, or forfeiture made or incurred with relation to any such stage coaches or carriages ; and so much of an act passed in the second year of the reign of his said late majesty king George the Third, intituled ' An Act for the better supplying the cities of London and Westminster with Fish, and to reduce the present exorbitant Price thereof, and to protect and encourage Fishermen,' as relates to the penalty therein imposed upon the driver of any fish carriage for taking up or suffering any passenger to be carried or conveyed in or by any such fish carriage ; and the said several acts and parts of acts hereinbefore specified shall be and the same

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

44 Geo. 3, c. 98.

50 Geo. 3, c. 48.

53 Geo. 3, c. 108, s. 21 & 22.

55 Geo. 3, c. 185, s. 2, 3, 6, 11 & 12.

3 Geo. 4, c. 95.

7 Geo. 4, c. 33.

9 Geo. 4, c. 49, s. 16, 17 & 18.

2 Geo. 3, c. 15, s. 9.

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

4 Geo. 4, c. 62,
relating to the
duties on horses
let for hire, re-
pealed after the
31st of January
1833.Exception as to
such parts of the
recited acts as
repeal any former
acts; and as to
arrears of duty,
and to penalties,
&c., incurred.Grant of duties
specified in sche-
dule (A.) hereto
annexed. (a)Definition of a
stage carriage.Carriages for car-
rying passengers
travelling at a
rate less than four

are hereby severally repealed accordingly, save and except only so far as is hereinafter in that behalf provided."

Sect. 2. "That an act passed in the fourth year of the reign of his late majesty king George the Fourth, intituled 'An Act to repeal the Duties upon Horses let to hire for the purpose of travelling in Great Britain, and to grant other duties in lieu thereof, and to provide for letting the same to farm,' shall continue in force until and upon the 31st day of January, in the year of our Lord 1833, and shall from thenceforth cease, determine, and be repealed, save and except only so far as is hereinafter in that behalf provided."

Sect. 3. Provided always, "that nothing in this act contained shall extend to repeal any of the said several acts and parts of acts hereinbefore mentioned, so far as the same or any of them repeal the whole or any part of any former act or acts, or with respect to any duty or arrears of any duty, or any debt or sum of money, which at any time before the several days or times hereinbefore respectively appointed for the repeal of the said several acts and parts of acts shall have accrued or been incurred under or by virtue of the said acts and parts of acts or any of them respectively, and which shall then or at any time afterwards be or become due or payable, and remain in arrear and unpaid, or with respect to any penalty or forfeiture or punishment incurred for or in respect of any offence committed at any time before the said several days or times hereinbefore respectively appointed for the repeal of the said several acts and parts of acts, but that all such duties and arrears of duty, debts, sums of money, penalties, forfeitures, and punishments, shall respectively be sued or prosecuted for, recovered, obtained, and inflicted by the same ways and means and in the same manner as if this act had not been made."

Sect. 4. "In lieu of the duties repealed by this act there shall be raised, levied, collected, and paid unto and for the use of his majesty, his heirs and successors, in and throughout Great Britain, for and in respect of every stage carriage and every horse let for hire, and every licence relating to the same, and for and in respect of passengers conveyed for hire as mentioned and described in the schedule (A.) to this act annexed, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the same schedule; and that the said schedule shall be deemed and taken to be part of this act; and that all the said duties shall be under the management of the commissioners of stamps, and shall be denominated and deemed to be stamp duties."

Sect. 5. "Every carriage used or employed for the purpose of conveying passengers for hire to or from any place in Great Britain, and which, when passing along any highway or other road, shall travel at the rate of three [same extended by 6 & 7 Wil. IV. c. 65, s. 7, *infra*, to four miles] miles or more in the hour, shall, without regard to the form or construction thereof, be deemed and taken to be a stage carriage within the meaning of this act; provided the passengers, or any one or more of them, thereby conveyed, shall be charged or shall pay separate and distinct fares or a separate and distinct fare, or shall be charged or pay at the rate of separate and distinct fares, for their respective places or seats or his place or seat therein or conveyance thereby; and in all proceedings at law or otherwise, and upon all occasions whatsoever, it shall be sufficient to describe any carriage used or employed as aforesaid by the term 'stage carriage,' without further or otherwise describing the same: provided always, that the said term 'stage carriage' shall not be deemed to extend to or to include any carriage used or employed as aforesaid wholly upon any railway, nor to any carriage drawn or impelled by the power of steam, or otherwise than by animal power."

By 6 & 7 Wil. IV. c. 65, s. 7, reciting that, by the 2 & 3 Wil. IV. c. 120, it is enacted, "that every carriage used or employed as therein mentioned, and which when passing along any highway or other road shall travel at

(a) See *Hammond v. Hooley*, 1 Bingham N. S. 131, *post*.

the rate of three miles or more in the hour, shall be deemed and taken to be a stage carriage within the meaning of the said act, provided as therein also mentioned: and whereas it is expedient to permit certain carriages to travel at a rate exceeding three miles in the hour without being deemed to be stage carriages; it is therefore enacted, that from and after the passing of this act no carriage shall by reason of the rate of travelling be deemed or taken to be a stage carriage within the meaning of the said act unless the same shall travel at the rate of four miles or more in the hour."

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

miles an hour not to be deemed stage carriages.

By 2 & 3 Wil. IV. c. 120, s. 6, "it shall not be lawful for any person to keep, use, or employ any stage carriage, unless such person shall have a licence in force so to do, granted to him under the authority of this act by two or more of the commissioners of stamps, or by some person duly authorized by the said commissioners to grant such licence, nor unless there shall be fixed on such carriage, in the manner hereinafter mentioned, the numbered plates by this act directed to be delivered with every such licence, nor unless the several particulars by this act directed to be painted on every such carriage shall be painted hereon; any thing in any other act contained to the contrary thereof notwithstanding."

Stage carriages not to be used without licences, nor without plates, nor without having painted thereon the particulars hereby required.

Sect. 7. "In any action, information, or other proceeding for the recovery of any duty or penalty incurred under this act in respect of or with relation to any stage carriage, if evidence shall be given that the carriage in respect of which or in any manner relating to which any such action, information, or proceeding shall be commenced or prosecuted was seen travelling or going upon any highway or other road, having fixed or placed thereon any numbered plate provided or used in pursuance of this or any former act relating to stage carriages, or having thereupon any plate resembling or intended to resemble any such plate as aforesaid, or having painted upon such carriage any of the particulars required by this act to be painted upon stage carriages, such carriage shall be deemed and taken to be a stage carriage; and such evidence as aforesaid shall be received as sufficient proof that such carriage was kept, used, and employed for the purpose of conveying passengers for hire as a stage carriage within the meaning of this act, unless the contrary be proved; and that in all such actions, informations, and proceedings as aforesaid the person named or described in the licence granted with or relating to the number of the plate (if any there shall be) fixed or placed upon any such carriage, whether such licence shall be in force or not, or the person whose name (if any) shall be painted on any such carriage, shall for the purposes of this act (unless the contrary be proved) be deemed to be the person to whom such carriage doth belong."

Carriages with plates or particulars painted thereon to be deemed stage carriages.

Sect. 8. "Any two or more of the commissioners of stamps, or any person duly authorized by the said commissioners, shall grant a licence under their or his hands or hand to any and every person of the age of twenty-one years or upwards who shall apply for such licence in the manner hereinafter mentioned, to keep, use, and employ any stage carriage in any part of Great Britain; and that every such licence to any person for or in respect of any stage carriage which shall go from or shall come to London or Westminster, or from or to any place within the county of Middlesex, or the weekly bills of mortality, shall be granted at the head office for stamps in Westminster; and every such licence to any person for or in respect of any stage carriage which shall go from or shall come to any other town or place within Great Britain shall be granted, either at the said head office, or by the person duly authorized by the said commissioners to grant such licences for the district within which the town or place is situated from which or at which such stage carriage shall begin or end its journey; and the said commissioners, or the person so authorized to grant such licence as aforesaid, shall at the time of granting every such licence for the first time, and at all other times when necessary, deliver to the person applying for such licence the numbered plates hereinafter required to be fixed upon the stage carriage mentioned in such licence: provided always, that no person shall be entitled

By whom and where stage carriages licences shall be granted.

Persons in arrear for duties or pe-

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

nalties shall not
be entitled to
licences until
payment of such
arrears.

Persons applying
for stage carriage
licences to sign a
requisition for the
same.

Penalty for omit-
ting the name of
any proprietor, 10*l*.

Persons inserting a
false name, &c., in
a requisition or
licence, guilty of
a misdemeanor.

Particulars to be
specified in stage
carriage licences.

to the grant or renewal of any such licence who at the time of applying for such grant or renewal shall be in arrear for any duties payable under this or any former act for or in respect of any stage carriage, or who shall not have paid or satisfied any penalty in which he shall have been convicted or for which judgment shall have been obtained against him in any action, information, or other proceeding under this or any former act relating to stage carriages; and it shall be lawful for the commissioners of stamps or their officer to refuse to grant or renew any such licence to any such person until such arrear of duty, and such penalty or mitigated penalty, shall have been fully paid and satisfied; any thing herein contained to the contrary notwithstanding."

Sect. 9. "Before any licence, whether original or supplementary, shall be granted or renewed under the provisions of this act for or in respect of any stage carriage, a requisition for such licence, in such form as the commissioners of stamps shall from time to time provide for that purpose, shall be made and signed by the proprietor or one of the proprietors of the stage carriage in respect of which such licence shall be applied for; and in every such requisition there shall be truly specified and set forth the christian name and surname and place of abode of the person applying for such licence, and of every person who shall be a proprietor or part proprietor of such carriage, or who shall be concerned, either solely or in partnership with any other person, in the keeping, using, or employing of such carriage; and in case any person, on applying for any such licence, shall neglect or omit to specify truly in such requisition as aforesaid the name of any person who shall be a proprietor or part proprietor of such carriage, or who shall be concerned as aforesaid in the keeping, using, or employing of such carriage, every person so offending shall forfeit ten pounds."

Sect. 10. "If any person applying for or procuring or attempting to procure any licence under this act for or in respect of any stage carriage shall use or employ any false or fictitious name or place of abode, or other false or fictitious description of any person or supposed person, or shall insert or cause to be inserted in any requisition for any such licence, or in any such licence, any false or fictitious name or place of abode, or other false or fictitious description of any person or supposed person as being the proprietor or part proprietor of the stage carriage for or in respect of which such licence shall be applied for or procured, or shall wilfully or knowingly insert or cause to be inserted in any such requisition, or in any such licence as aforesaid, the name of any person as being a proprietor or part proprietor of such carriage who shall not at the time of the application for such licence be in fact a proprietor or part proprietor of such carriage, the person so offending shall be guilty of a misdemeanor, and, being convicted thereof, he shall be liable to be punished by fine or imprisonment, or by both, as the court shall award; such imprisonment to be in the common gaol or house of correction, and either with or without hard labour, as the court shall think fit; and in Scotland, whenever any person shall so offend, he shall be liable to be punished in like manner."

Sect. 11. "There shall be specified in every licence to be granted or renewed under this act for or in respect of any stage carriage the following particulars, or such of them as the commissioners of stamps shall think proper; (that is to say,) the christian name and surname and the place of abode of the person and of every person who shall be a proprietor or part proprietor of the stage carriage in respect of which such licence shall be granted, or who shall be concerned, either solely or in partnership with any other person, in the keeping, using, or employing of such carriage, the number painted or marked on the plates to be fixed on such carriage, the names of the extreme places from which and to which such carriage shall be authorized by such licence to go or pass, and the route or line of road by which such carriage shall travel to or from such extreme places, and also the distance in miles or fractional parts of a mile, or both, as the case may require, between such extreme places, the number of journeys, and the total number of miles upon which the duty granted by this act shall be assessed,

and which such carriage shall be authorized to perform or to travel, either *Stage Coaches* separately or in conjunction with one or more other licensed stage carriage *and Post* or carriages, within the day, week, or month, as the said commissioners *Horses*. may think fit, the days of the week on which such carriage shall be authorized to be used, and the greatest number of passengers to be conveyed by such carriage, distinguishing (when the same is intended to convey both inside and outside passengers) the number to be carried on or about the outside from the number to be carried in the inside of such carriage; and a copy of every such licence, and of every indorsement which shall from time to time be made thereon, shall be kept at the office or place from which such licence shall be issued, in order that any person may have a copy thereof, paying 1s. for the same."

2 & 3 Wil. 4, c. 120.

Copy of licence to be given on payment of 1s.

Sect. 12. Provided always, "that it shall be lawful for the commissioners of stamps, where they shall deem it expedient, at the time of granting any such licence as aforesaid, to compound with any person, on such terms and conditions as they shall think fit, for the duties which may become payable in respect of such stage carriage; and then and in such case, instead of the number of journeys and the total number of miles which such carriage shall be authorized to perform within the day, week, or month, there shall be specified in the licence granted for or in respect of such carriage the amount of the composition, per day, week, or month, to be paid for and in respect of such carriage in lieu of the duties specified in the said schedule to this act annexed, together with such stipulations and conditions as the said commissioners shall think proper for better securing the payment of such composition."

Duties may be compounded for.

In case of a composition, the amount to be specified in the licence.

Sect. 13. "From and after the passing of this act every licence for the keeping, using, employing, or letting out to hire of any stage carriage which shall have been granted under any former act, and which shall have been in force on the 31st day of July in this present year 1832, shall be and the same is hereby revived and continued, and shall be deemed to be and to have been in full force and effect from the said 31st day of July; and every such licence which shall be so revived and continued as aforesaid, and also every other such licence as aforesaid which shall have been or shall be granted under any former act after the said 31st day of July and before the 11th day of October in this present year 1832, shall respectively remain and continue in force until and upon the 10th day of October in the said year 1832, (unless sooner determined by the parties to whom the same shall have been granted,) and shall then cease and determine, any thing in any former act or in such licences respectively to the contrary notwithstanding; and that every such licence as aforesaid, whether original or supplementary, which shall be granted, under the authority of this act, after the 10th day of October and before the 1st day of November in the said year 1832, shall be dated on the 11th day of October in the same year; and every such licence which shall be granted after the 31st day of October in the said year 1832, and before the first Monday in the month of October in the year 1833, shall be dated on the day on which the same shall be granted; and every such licence granted as aforesaid under the authority of this act shall have effect and continue in force from the day of the date thereof until the first Monday in the month of October 1833 (unless sooner discontinued in manner hereinafter mentioned), and no longer; and every such licence as aforesaid which shall be granted at any time on or after the first Monday in October and before the 1st day of November in the year 1833, or in any subsequent year, shall be dated on the first Monday in October in the year in which the same shall be granted, specifying the day of the month; and every such licence which shall be granted at any other time than as aforesaid in the said last-mentioned year, or in any subsequent year, shall be dated on the day on which the same shall be granted; and every such licence as aforesaid which shall be dated on the first Monday in any month of October, or on any other day in any year, shall have effect and continue in force from the day of the date thereof until the first Monday in the month of October then next ensuing, or until the Monday next ensuing the granting of such

Carriage licences granted under former acts continued until 10th October 1832.

Commencement and termination of licences granted under this act.

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

Licences to be
renewed yearly.Mode of discon-
tinuing stage car-
riage licences.Plates to be deli-
vered up on the
expiration of li-
cences, or in de-
fault the duty to
continue pay-
able.Supplementary
stage carriage li-
cences may be
granted in certain
cases.

licence, if such Monday shall be the first Monday in October (unless sooner discontinued as aforesaid), and no longer; and every such licence shall be renewed from year to year, by the grant of an original licence, on payment of the duty of 5*l.* by this act charged thereon."

Sect. 14. "When any person to whom any licence shall have been granted under this act for or in respect of any stage carriage shall determine to discontinue or give up such licence, such person shall give notice in writing of such his determination to the commissioners of stamps or to the officer by whom such licence was granted; and when the time for giving up such licence according to such notice shall have elapsed, and such licence shall have been given up to the said commissioners or officer, such licence shall cease and determine, and shall be no longer in force, and the person so previously licensed shall not be charged with the duties payable according to the terms of such licence, in respect of such stage carriage, for any period subsequent to the expiration of such notice and the re-delivery of such licence, provided he shall within seven days next after the expiration of such notice deliver up to the said commissioners or officer the numbered plates mentioned in such licence."

Sect. 15. "Whenever any licence granted under this act for or in respect of any stage carriage shall cease or expire, or be discontinued, the person to whom such licence shall have been granted shall, within seven days next after the expiration or discontinuance thereof, deliver up to the commissioners of stamps, or to the officer by whom such licence was granted, the numbered plates mentioned in such licence, or in default thereof such person shall continue to be subject and liable to the payment of the same rate of duty as under this act was payable according to the terms of such licence before the expiration or discontinuance thereof, and such person shall be chargeable and charged with the payment of the said duty according to the time of delivering up the said plates to the said commissioners or officer; and such duty shall be recoverable by the same ways and means as if such licence had continued in force."

Sect. 16. "Whenever any person to whom any original licence chargeable under this act with the duty of 5*l.* shall have been granted for or in respect of any stage carriage shall afterwards, and within the term for which such licence was granted, take any other person into partnership in the keeping, using, or employing of such stage carriage; and whenever, after the granting of any such original licence as aforesaid to any persons in copartnership, and within the period for which the same was granted, any alteration shall take place in such copartnership; and also whenever any person to whom any such original licence as aforesaid shall have been granted shall afterwards, and within the period for which the same was granted, be desirous of increasing or decreasing the number of journeys specified in such licence to be performed or travelled by such stage carriage in the day, week, or month, as the same may be specified in such licence, or of altering the route or line of road by which such stage carriage shall travel to or from the extreme places from which and to which such stage carriage shall be authorized by such licence to go or pass, or of altering such extreme places by extending or shortening the distance which such stage carriage shall be authorized to perform or travel on the same line of road, or of altering the days of the week on which such stage carriage shall be authorized to be used, or of increasing or decreasing the number of passengers to be conveyed by such stage carriage, either in the whole or in the inside or on or about the outside thereof, then and in any of the several cases aforesaid, upon the surrender and delivery of any such original licence, or of any existing supplementary licence which may have been taken out in lieu thereof, to the commissioners of stamps, or to the officer by whom the same was granted, the said commissioners or officer shall grant to such person or copartnership of persons a supplementary licence, with any such alterations or variations as aforesaid, in lieu of the licence so surrendered and delivered up, on payment only of the duty of 1*s.* by this act charged on such supplementary licence; and in like manner a supplementary licence shall be

granted and taken out from time to time as often as any of the several cases aforesaid shall occur during the period for which any such original licence shall have been previously granted."

Stage Coaches and Post Horses.

Sect. 17. "Whenever any such supplementary licence as aforesaid shall be granted in lieu of any pre-existing licence such pre-existing licence shall thenceforth cease and determine, and such supplementary licence shall be deemed to be the only licence then in force; and it shall not be necessary upon any occasion to prove that any original licence had been previously taken out for or in respect of the stage carriage for which such supplementary licence shall have been granted, nor shall the circumstances under which such supplementary licence was issued be required to be proved, nor the regularity of the issuing thereof in any manner questioned."

2 & 3 Wil.4, c. 120.
Such supplementary licence to be then the only licence in force.

Sect. 18. "The duty payable in respect of any licensed stage carriage shall be payable and paid to his majesty by the person or persons named as the proprietor or proprietors in the licence relating to such stage carriage; and in all actions, informations, and other proceedings for the recovery of any such duty each and every of the said proprietors severally, or the whole, or any two or more of them jointly, may be charged with and prosecuted for the same; and the amount of the rate of duty imposed by this act upon or in respect of any such carriage, computed upon the number of miles which such carriage shall be authorized by such licence to travel in the day, week, or month, as the case may be, or the amount of the composition specified in such licence, computed upon the time which shall have elapsed since the date thereof, shall be deemed to be the amount of duty due and payable in respect of such carriage (unless the same shall be proved to have been paid); and proof of the granting of any such licence, and of the terms thereof, shall in all cases be sufficient evidence of the duty due, without any evidence being given of the actual keeping, using, or employing of the stage carriage in such licence mentioned by the person named therein as the person to whom the same shall have been granted: provided always, that nothing herein contained shall extend to exonerate from liability to the payment of such duty any proprietor whose name may not be inserted in such licence, but that every such proprietor may be charged with and prosecuted for such duty either alone or jointly with any one or more other proprietor or proprietors, whether named in such licence or not."

Duty to be payable by the person named in the licence;

and to be computed according to the terms of the licence.

Evidence of the duty due.

Sect. 19. Provided always, "that it shall be lawful for the commissioners of stamps, or their proper officer, to examine into all the circumstances relative to the number of journeys or the number of miles actually performed or travelled by any stage carriage, and in cases where the same shall be less than the number expressed in the licence relating to such carriage it shall be lawful for the said commissioners, or their said officer, to make such allowances of duty as to them respectively shall appear to be just and proper to the person licensed in respect of such carriage upon proof being made to the satisfaction of the said commissioners or officer as to the number of journeys or miles actually performed or travelled by such carriage; and it shall also be lawful for the said commissioners to make such regulations with respect to such carriages, where any such allowance shall be applied for, as they shall from time to time deem necessary or expedient, as well for effectually securing the duties on such carriages as for doing justice to the owners or proprietors thereof, any thing herein contained to the contrary notwithstanding; and if any person licensed as aforesaid, in any account to be rendered by him in pursuance of this act, or of any such regulations as aforesaid, of the number of journeys or miles actually performed or travelled by any stage carriage, shall neglect or omit to insert therein any journey actually performed by such carriage, or shall insert therein a less number of miles than shall have been actually travelled by such carriage during the period for which such account shall be rendered, he shall forfeit 50*l*."

Commissioners may make allowance for the duties on journeys not performed by any licensed stage carriage.

Penalty for rendering a false account of the journeys performed by any stage carriage, 50*l*.

Sect. 20. "The person to whom any such licence as aforesaid shall have been granted at the head office for stamps, or some person on his behalf, shall, on the first Monday in every calendar month, between the hours of ten in the morning and three in the afternoon, unless the same be a holiday,

When and where stage carriage duties shall be paid.

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

Stage carriage du-
ties not exceeding
50*l.* recoverable
by distress.

Duties shall be
paid in respect of
unlicensed stage
carriages, over
and above the
penalty.

and then on the next day not being a holiday, pay the whole of the duty charged and accrued due under or by virtue of such licence within the four or five preceding weeks, as the case may be, in respect of the stage carriage mentioned in such licence, to the receiver general of stamp duties, or to the proper officer for the time being for receiving stage carriage duties at the said head office; and that the person to whom any such licence as aforesaid shall have been granted at any other place than the said head office, or some person on his behalf, shall at the periods aforesaid pay the whole of the duty charged and accrued due as aforesaid, under or by virtue of such last-mentioned licence, to the person by whom such licence shall have been granted, or to such other person as the commissioners of stamps shall appoint or authorize to receive the same."

Sect. 21. "If any person to whom any licence shall be granted under the provisions of this act, to keep, use, or employ any stage carriage shall make default in payment of any sum of money not exceeding in amount the sum of 50*l.*, which shall become due or payable in respect of such licence, at the time and in the manner by this act appointed for payment thereof, it shall be lawful for any two of the commissioners of stamps to grant a warrant to any constable or other peace officer, or to any officer of stamp duties, or other person named in such warrant, directing him to distrain every such person so making default as aforesaid by his goods and chattels, and also to seize and take the carriages, horses, harness, and other articles and things by this act made subject and liable to such duty, for the amount of the duty so due or payable as aforesaid, and of all the costs, charges and expenses incident or relating to the taking and keeping of such distress; and it shall be lawful for such constable, or for any such officer or other person as aforesaid, to make such distress and seizure accordingly, and the distress so taken to detain and keep for the space of five days, at the costs and charges of the person distrained; and if the amount of such duty, and of all the costs, charges, and expenses aforesaid, shall not be paid within such space of five days, then such constable or officer or other person shall cause the goods and chattels, carriages, horses, harness, and other things so seized or taken, to be sold in the manner directed by this act, and shall render the overplus, if any, of the money arising by the sale thereof, after deducting and retaining the amount of such duty, and all the costs, charges, and expenses aforesaid, as well as the charges and expenses of the sale, to the person so distrained, or to the owner of the carriages, horses, harness, or other things so seized and taken as aforesaid; and for the purpose of taking such distress it shall be lawful for such constable or other peace officer, or for such officer of stamp duties, or other person named in such warrant, in the presence of any constable or other peace officer, where any refusal or resistance shall be made, to break open in the day-time any house, building, or other place where any such carriages, horses, harness, or other articles or things, or any goods or chattels, to be seized or taken under such warrant as aforesaid, shall be."

Sect. 22. "If any person shall keep, use, or employ any stage carriage without having such licence as by this act is required, such person shall, over and above any penalty which may be incurred under this act, be accountable to his majesty for the same duty as such person would have been chargeable with and liable to pay for or in respect of such carriage in case such person had obtained a proper licence for the same under this act, for the particular journey, distance, or number of miles, and for the number of journeys in the day, week, or month, and for the number of passengers, which such person shall at any time have advertized or otherwise notified or expressed that such carriage was intended or had been or was to be employed to go or carry respectively, or which such carriage shall actually have gone or carried respectively, at any one period during which such carriage shall have been kept or used, at the election of the said commissioners; and that every person so keeping, using, or employing such carriage, shall be chargeable with such duty for the same from the time when such carriage was first kept or used without such licence as aforesaid, down to the time when any licence

shall be taken out for the same by such person, or to the time when the use thereof shall be absolutely discontinued, and also with the duty which would have been payable for the proper licence which such person ought to have taken out in respect of such carriage as aforesaid." *Stage Coaches and Post Horses.*

Sect. 23. "It shall not be lawful for any person licensed in respect of any stage carriage to use, have, or keep more than one pair of plates under or by virtue of any one licence, but that for every pair of plates there shall be a separate and distinct licence." *2 & 3 Wil. 4, c. 120. A separate licence required for every pair of plates.*

Sect. 24. "Whenever the number or device on any plate or plates shall become obliterated or defaced, so that the same shall not be distinctly visible and legible, and also whenever any plate or plates shall be proved to the satisfaction of the commissioners of stamps to have been lost or mislaid, the person to whom the licence relating to any such plate or plates shall have been granted shall surrender and deliver up such of the said plates as he shall have in his possession, and shall produce such licence to the said commissioners or to their proper officer, and such person shall then be entitled to have new plates delivered to him in lieu of the plates so delivered up or lost or mislaid, upon payment for the use of his majesty, of any sum, in the discretion of the said commissioners, not exceeding the sum of ten shillings for each pair of plates; and where the number on such new plates shall be different from the number on such plates so delivered up or lost or mislaid, the said commissioners or officer shall indorse and sign upon the licence a memorandum of the issuing of such new plates in lieu of the plates in such licence mentioned: provided always, that if any such plate or plates which shall have been proved as aforesaid, or represented to have been lost or mislaid, shall afterwards be found, the same shall forthwith be delivered up to the said commissioners; and if any person in or into whose possession or power any such plate or plates as last aforesaid shall be or come shall refuse or neglect for the space of five days to deliver up the same to the said commissioners, he shall forfeit 20*l*." *New plates to be delivered in lieu of defaced or lost plates.*

Sect. 25. "Whenever, in the opinion of the commissioners of stamps or their proper officer, it shall be expedient to recall any plates for the purpose of changing the same for any other plates, and such commissioners or officer shall give notice to the person or to any one of the persons to whom the licence relating to such plates shall have been granted that the said commissioners or officer do or doth by such notice recall such plates, the person to whom such licence shall have been granted shall, within one week after such notice, deliver up such plates, and produce the licence relating to the same, to the said commissioners or their proper officer, and shall also apply to the said commissioners or such officer for new plates, and thereupon the said commissioners or such officer shall deliver to the person so applying for the same new plates in lieu of the plates so as aforesaid recalled; and where the number on such new plates shall be different from the number on such recalled plates the said commissioners or officer shall endorse and sign upon the licence a memorandum of the surrender of the plates in such licence mentioned, and of the granting of such new plates in lieu thereof, and from thenceforth such licence shall be deemed to relate to such new plates in the same manner as if the number thereof had been originally inserted in the body of such licence." *Commissioners may recall and change plates.*

Sect. 26. "The plates by this act required to be fixed upon every stage carriage shall be fixed, one on each side of such carriage, upon the upper fore quarter at the lower angle adjoining to the door, or if there be no upper fore quarter, then on the centre panel of each door in the side of such carriage, or if there be a door only in one side of such carriage, then one of such plates shall be fixed upon the centre pannel of that door, and the other upon some conspicuous part of the opposite side of such carriage, or if there be no door in either side of such carriage, then one of such plates shall be fixed upon some conspicuous part of each side of such carriage; and if it shall happen that the commissioners of stamps, or their proper officer, shall be dissatisfied with the position of any plate upon any such carriage, and shall direct such plate to be fixed upon some other conspicuous part of such car- *In what manner plates are to be placed upon stage carriages.*

Stage Coaches and Post Horses.

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

Penalty for keeping, using, &c., any stage carriage without a licence or without plates, or with recalled plates.

Persons using stage carriages contrary to their licences, or with improper plates, shall be deemed to be using them without licences.

Representatives of persons licensed may use stage carriages for thirty days without further licence.

Penalty for plying for hire with carriages not having plates thereon.

Offenders may be

riage, such plate shall be fixed accordingly upon such carriage in compliance with such direction."

Sect. 27. "If any person shall keep, use, or employ, or shall be concerned as proprietor [sec. 117, *post*, 758,] or part proprietor in the keeping, using, or employing of any stage carriage, without having a licence in force so to do granted to him under this act, or if any person, whether he shall have any such licence or not, shall keep, use, or employ any stage carriage, such carriage not having placed and fixed thereupon and in the manner directed by this act the numbered plates required by this act to be fixed on stage carriages, or having thereupon any such plate as aforesaid the number or device whereon shall be in any manner obliterated, defaced, or obscured, so that the same shall not be distinctly visible and legible, or if any person to whom any such licence shall have been granted shall, for the space of one week after notice in manner by this act directed to be given to such person that the plates to which such licence shall relate have been recalled, neglect or refuse to deliver up the plates mentioned in such notice, according to the terms thereof, every person so offending in any of the several cases aforesaid shall forfeit 20*l*."

Sect. 28. "If any person to whom any licence shall have been granted in respect of any stage carriage shall permit or suffer such carriage to perform a greater number of journeys or to travel a greater number of miles than shall be mentioned in or allowed by such licence, or to be used on any other day or for the performing of any other journey than shall be mentioned or allowed in or by such licence, or shall fix or place upon such carriage any plate having a number different from the number mentioned in or authorized by the licence in force at the time of using such carriage, such person shall be deemed to be a person keeping, using, and employing a stage carriage without having a licence in force so to do, and shall accordingly be subject and liable to the penalty of 20*l*. by this act imposed in that behalf; and in all actions, informations, or other proceedings against such person for the recovery of such penalty in any of the cases aforesaid it shall be sufficient to charge or allege that such person did keep, use, and employ a stage carriage without having a licence in force so to do granted to him under this act, and it shall not be necessary further or otherwise to state or describe any such offence, nor to prove that such carriage was used or employed for the conveyance of passengers at separate fares."

Sect. 29. "Whenever any person to whom any licence shall have been granted for or in respect of any stage carriage shall die, or become bankrupt or insolvent, during the existence of such licence, it shall be lawful for his executor, administrator, or assignee, or trustee, to keep, use, and employ such stage carriage according to the terms of such licence for the space of thirty days next after the death, bankruptcy, or insolvency of the person to whom such licence was granted, without being liable for so doing to the penalty by this act imposed on any person who shall keep, use, or employ any stage carriage without having a licence in force so to do: provided always, that such executor, administrator, assignee, or trustee shall be liable to and chargeable with the payment of the duty which shall accrue or become payable in respect of such stage carriage from the time of such death, bankruptcy, or insolvency, and shall also be liable to all other the provisions and regulations of this act in the same manner as if such executor, administrator, assignee, or trustee had duly obtained the licence in his own name for the keeping, using, and employing of such stage carriage."

Sect. 30. "If any carriage, whether licensed as a stage carriage or not, shall be found upon or near to any public highway, and any person shall ply for passengers to be conveyed by such carriage for hire at separate fares, such carriage not having placed and fixed thereupon the numbered plates required by this act to be fixed on stage carriages, the driver [sec. 117, *post*, 758, *R. v. Barker*, 3 *East*, 504,] of such carriage, or the person having the care thereof, or plying for passengers to be conveyed thereby, such driver or person, not being the owner of such carriage, shall forfeit 10*l*., and if he shall be the owner of such carriage he shall forfeit 20*l*.; and moreover it shall be

lawful for any constable or other peace officer, or any officer of stamp duties, without any warrant for that purpose, to apprehend such driver or other person having the care of such carriage or plying for passengers to be conveyed thereby, and to carry and convey him before any justice of the peace having jurisdiction where the offence shall be committed, to be dealt with as hereinafter mentioned; and it shall also be lawful for such constable or other peace officer, or officer of stamp duties, to drive or take the carriage not having such plates, with the horse or horses harnessed thereto or drawing the same, or to cause the same to be driven or taken, to some public greenyard, or some livery stables or other place of safety, and there to lodge the same for safe custody until the determination of such justice shall be known; and the justice before whom such driver or other person shall be brought shall hear and determine such offence; and in case the person convicted of any such offence shall be the owner of any such carriage, and if the said penalty of 20*l.*, together with all costs and expenses, and the expenses of taking such carriage and horse or horses to and keeping the same at such greenyard, stables, or other place, shall not be fully paid or discharged within five days after such conviction, such carriage and horse or horses, together with the harness used therewith, shall be sold by order under the hand of such justice, and the surplus (if any) of the produce of such sale, after deducting therefrom the said penalty, costs, and expenses, and also the expenses of such sale, shall be rendered to such owner; but in case the person so convicted shall not be the owner of such carriage, then on default being made in payment of the said penalty of 10*l.* such justice shall commit the offender to the common gaol or house of correction for the space of three calendar months, unless such last-mentioned penalty shall be sooner paid; and such justice shall give an order for the delivering up of the carriage, and horse or horses, and harness, to the owner thereof, on his paying the expenses of taking and keeping the same; and in case of his refusal to pay such expenses forthwith, then such carriage, and horse or horses, and harness, or a sufficient part thereof to defray such expenses, shall be sold by order under the hand of such justice; and after payment thereof of all such expenses as aforesaid, together with the expenses of such sale, the surplus, (if any,) of the produce of such sale, together with such part of the carriage, and horse or horses, and harness, as shall remain unsold, shall be rendered and restored to the owner."

Sect 31. "From and after the passing of this act it shall be lawful for the proprietor or driver of any stage carriage duly licensed by the commissioners of stamps, and having thereon the proper numbered plates or plate required by law to be placed on stage carriages, or for any other person, to stand or ply with such carriage for passengers to be carried for hire, and to take up, convey, and set down such passengers with or from such carriage at any place either within the distance of five miles from the general post office in the City of London or elsewhere, any thing contained in an act passed in the last session of parliament, for amending the laws relating to hackney carriages, notwithstanding; provided that for this purpose such stage carriage shall not deviate from the proper route or line of road, if any shall be specified or described in the licence relating to such stage carriage, or shall not go beyond the limits allowed by such licence."

Sect. 32. "If any person shall forge or counterfeit, or shall cause or procure to be forged, counterfeited, or resembled, any numbered plate directed to be provided, or which shall have been provided, made, or used in pursuance of this act or of any former act relating to the duties payable in respect of stage carriages, or shall wilfully fix or place, or shall cause or permit or suffer to be fixed or placed, upon any stage carriage or other carriage, any such forged or counterfeited plate, or if any person shall sell or exchange or expose to sale or utter any such forged or counterfeited plate, or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have or be possessed of any such forged or counterfeited plate, knowing such plate to be forged or

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120. apprehended and conveyed before a justice of the peace.

Carriages may be driven to the greenyard or other place for safe custody.

Licensed stage carriages exempt from provisions of any act relating to hackney carriages.

Forging stage carriage plates, &c., a misdemeanor.

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

Plates detained after the expiration of licences, or used by persons not having licences in force, or recalled plates, may be seized.

Penalty for obstructing officers seizing such plates, 20*l*.

Penalty for carrying a greater number of passengers than authorized by licence, 5*l*. for each passenger above number.

Two children under seven years old reckoned as one passenger.

Particulars to be painted on stage carriages (a).

counterfeited, every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence as aforesaid, shall be adjudged guilty of a misdemeanor, and being thereof convicted shall be liable to be punished by fine or imprisonment, or by both, such imprisonment to be in the common gaol or house of correction, and either with or without hard labour, as the court shall think fit; and in Scotland, whenever any person shall so offend, he shall be liable to be punished in like manner; and it shall be lawful for any officer of stamp duties, or for any constable or other peace officer, or any toll-gate keeper, to seize and take away any such plate, in order that the same may be produced in evidence against such offender, or be disposed of as the commissioners of stamps shall think proper."

Sect. 33. "If after the expiration or discontinuance of any licence granted to any person under any former act relating to stage carriages, or under this act, such person shall use, detain, or have in his possession the numbered plate or plates mentioned in such licence, or shall neglect to deliver the same to the commissioners of stamps or to their proper officer, or if any person shall use or detain or have in his possession any numbered plate or plates without having a licence in force granted to him under any such act as aforesaid, and relating to such plate or plates, or if any person shall use or detain or have in his possession any numbered plate or plates which shall have been recalled by the commissioners of stamps or their proper officer, whether the licence relating thereto shall be in force or not, it shall be lawful for any officer of stamp duties, or for any constable or other peace officer, or for any toll-gate keeper, to seize and take away any such plate or plates wheresoever the same may be found, in order to deliver the same to the said commissioners; and for the purpose of seizing and taking away any such plate or plates, or any forged or counterfeited plate or plates, it shall be lawful for such officer of stamp duties, constable, peace officer, or toll-gate keeper, to stop any stage carriage or other carriage upon which the same may be placed; and any person who shall molest, obstruct, or hinder such officer of stamp duties, constable, peace officer, or toll-gate keeper in seizing or endeavouring to seize or take away any such plate or plates as aforesaid shall forfeit 20*l*."

Sect. 34. "If the number of passengers at any one time conveyed in, upon, or about any licensed stage carriage shall be greater in the whole than the number of passengers which the licence granted in respect of such carriage shall authorize or allow to be conveyed thereby, or if the number of passengers at any one time conveyed in the inside of such stage carriage, or upon or about the outside thereof, shall be greater respectively than the greatest number of inside or outside passengers respectively specified in or upon such licence and allowed thereby, the person to whom such licence shall have been granted shall forfeit 5*l*. for every passenger so conveyed above the number allowed by such licence to be conveyed in the whole, or in the inside, or on or about the outside of such carriage respectively; and the driver of such stage carriage at the time when such offence shall be committed shall also forfeit 5*l*."

Sect. 35. Provided always, "that no child or children in the lap shall be counted as a passenger or passengers under any of the clauses or provisions of this act or of the schedule (A.) hereto annexed; and that no child not in the lap, but under seven years of age, shall be so counted as aforesaid, unless there shall be more than one such child; and if there shall be more than one such child not in the lap, but under seven years of age, then two such children shall be accounted equal to one adult person, and considered as one passenger, and so on in the same proportion."

Sect. 36. "No stage carriage shall be used or employed unless nor until

(a) The inscription on a stage coach of the name of the party licensed to use it, was evidence against him of the ownership, as well in an action as on summary proceedings, under the 25 Geo. III. c. 51, 50 Geo. III. c. 48, and 9 Geo. IV. c. 49, now repealed. (*Barford v. Nelson*, 1 *Barn. & Adol.* 571.)

there shall be truly painted in words at length, and in legible and conspicuous letters one inch at the least in the height, and of a proper and proportionate breadth, and in a colour different from and opposite to the colour of the ground on which such letters shall be painted, upon some conspicuous part of each sale* of such carriage, and clear of the wheel or wheels thereof, so that the same shall be at all times plainly and distinctly visible and legible, the christian name and surname of the proprietor or of one of the proprietors of such carriage, and also the names of the extreme places from which and to which such carriage shall be licensed to travel or go; and there shall also be painted in manner aforesaid, upon some conspicuous place on the back of such stage carriage, and so that the same shall be at all times plainly and distinctly visible and legible, the greatest number of passengers allowed to be carried in or by such carriage, and also when such carriage shall be licensed to carry both inside and outside passengers, the greatest number of passengers allowed to be taken in the inside and on the outside thereof respectively; and if any person shall use or employ any stage carriage upon which all such particulars as aforesaid shall not be truly painted in such legible and conspicuous letters and in manner aforesaid, or in case such particulars or any of them shall be partially obliterated or defaced from or upon any such carriage, then if any such person shall neglect to paint or cause to be painted again, in manner aforesaid, every particular so obliterated or defaced, such person so offending in any of the cases aforesaid shall forfeit 5*l*."

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

* Sic.

Penalty for neglecting to paint such particulars, 5*l*.

Sect. 37. "No outside passenger nor any luggage shall be carried on the top or roof of any stage carriage the top or roof of which from the ground shall be more than eight feet nine inches, or the bearing of which on the ground shall be less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near wheel; and if any outside passenger or luggage shall be carried on any such carriage in any manner contrary to the directions aforesaid, the driver of such carriage at the time when such offence shall be committed shall forfeit 5*l*."

Certain stage carriages shall not take outside passengers or luggage.

Penalty 5*l*.

The 38, 39, 40, 41, 42 & 44 sections of this act of 2 & 3 Wil. IV. c. 120, and which imposed restrictions on and regulated the number of outside passengers and the mode of carrying them, are repealed by the 3 & 4 Wil. IV. c. 48.

By the 3 & 4 Wil. IV. c. 48, intituled "An Act to amend an Act of the Second and Third Years of His present Majesty, relating to Stage Carriages in Great Britain; and also to explain and amend an Act of the First and Second Years of His present Majesty, relating to Hackney Carriages used in the Metropolis," [28th August, 1833], reciting, "Whereas an act was passed in the second and third years of the reign of his present majesty, intituled 'An Act to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages and on Horses let for Hire in Great Britain, and to grant other Duties in lieu thereof, and also to consolidate and amend the Laws relating thereto,' and it is expedient to alter and amend the said act in the several particulars hereinafter mentioned; it is enacted, that from and after the passing of this act, so much and such part and parts of the said recited act as in any manner regulate or restrict the number of passengers allowed to be carried on the outside of any stage carriage, or regulate or relate to the distribution or placing of or the manner of carrying the outside passengers on any stage carriage, and also so much and such part of the said recited act as requires that a separate division or space shall be allotted for luggage on the top or roof of any stage carriage, shall be and the same is and are hereby repealed: provided always, that nothing herein contained shall extend or be construed to extend to repeal or alter any clause of the said recited act by which any penalty is imposed for conveying a greater number of passengers on the outside of any licensed stage carriage than is specified and allowed in and by the licence granted in respect of such carriage."

3 & 4 Wil. 4, c. 48.

2 & 3 Wil. 4, c. 120.

So much of recited act as relates to the number or distribution of outside passengers, or as requires a separate division for luggage on the roof of a stage carriage, repealed.

Sect. 2. "Notwithstanding any thing in the said recited act contained, Number of outside

Stage Coaches and Post Horses.

3 & 4 Wil. 4, c. 48.

passengers allowed to be carried by stage carriages.

Penalty for carrying more outside passengers than are allowed, 5*l*.

Driver, guard, and children in lap, not to be counted as passengers; two children under seven years reckoned as one passenger.

No person to sit on luggage on the roof, nor more than one person besides the driver on the box.

Penalty 5*l*.

Mode of recovering penalties.

any licensed stage carriage with four wheels or more, the top or roof of which shall not be more than eight feet and nine inches from the ground, and the bearing of which on the ground shall not be less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near wheel, if such carriage shall be licensed to carry any number not more than nine passengers, shall be allowed to carry not more than five of such passengers outside; and if licensed to carry more than nine and not more than twelve passengers, shall be allowed to carry not more than eight of such passengers outside; and if licensed to carry more than twelve and not more than fifteen passengers, shall be allowed to carry not more than eleven of such passengers outside; and if licensed to carry more than fifteen and not more than eighteen passengers, shall be allowed to carry not more than twelve of such passengers outside; and if licensed to carry any greater number than eighteen passengers, shall be allowed to carry not more than two additional passengers outside for every three additional passengers which such carriage shall be so licensed to carry in the whole; provided that in no case a greater number of passengers shall be carried on the outside of any stage carriage than the licence relating thereto shall authorize to be carried on the outside thereof; and if any greater number of outside passengers shall be carried by any stage carriage than as hereinbefore specified and allowed, or if any outside passenger shall be carried by any stage carriage not expressly licensed to carry any outside passenger, the driver (*a*) of such stage carriage at the time when such offence shall be committed shall forfeit 5*l*."

Sect. 3. "The several numbers of outside passengers by this act allowed to be carried by any such stage carriage as aforesaid shall be reckoned exclusive of the driver and also of the conductor or guard, if there shall be a conductor or guard of such stage carriage; and that no child or children in the lap shall be counted as a passenger or passengers; and that no child not in the lap, but under seven years of age, shall be so counted, unless there shall be more than one such child, and if there shall be more than one such child not in the lap, but under seven years of age, then two of such children shall be accounted equal to one adult person, and considered as one passenger, and so on in the same proportion."

Sect. 4. "No person shall be allowed to sit or be carried upon any luggage [see sect. 117, *post*, 758], placed on the roof of any stage carriage, and that not more than one passenger or other person shall be allowed to sit or be carried upon the box with the driver of any stage carriage; and that if any person shall sit or be carried upon any luggage placed as aforesaid, or if more than one person besides the driver shall sit or be carried upon the box of any stage carriage, the driver of such stage carriage at the time when any such offence shall be committed shall forfeit 5*l*."

Sect. 5. "All penalties which may be incurred under the provisions of this act may be prosecuted for and recovered by information or complaint before a justice of the peace in the name of any person who will inform or complain in that behalf, by the same ways and means and in the same manner and form as are and is provided for the recovery of any penalty incurred under the said recited act; and all clauses, regulations, and provisions contained in the said recited act, relating to the recovering, levying, or mitigating of the penalties thereby imposed, shall be of full force and effect, and shall be applied and put in execution for the recovering, levying, and mitigating of the penalties by this act imposed, as fully and effectually to all intents and purposes as if such clauses, regulations, and provisions had

(*a*) In the case of *R. v. Barker*, 3 *East*, 504, it was held on the 28 Geo. III. c. 57, that one might be convicted as the driver of a stage coach, for permitting and suffering beyond the proper number of persons to go upon the roof of it, although he be not stated to be a driver

employed by the owner, and although he did not appear when summoned before the magistrate, in which case the second section of the act directs that the owner shall be liable to the penalty thereby laid on such driver.

been repeated and specially enacted in this act with reference to the penalties by this act imposed." *Stage Coaches and Post Horses.*

Sect. 6. Provided always, "that all pecuniary penalties imposed by or incurred under this act and under the said recited act, or either of them, whether the same shall be sued or prosecuted for and recovered by or in the name of his majesty's attorney general in England, or his majesty's advocate for Scotland, or the solicitor of stamps, or any other officer of stamp duties in England or Scotland respectively, or for the recovery of which any information or complaint shall be made or any action or suit commenced by any other person or persons whomsoever, shall go and be applied to the use of his majesty, any thing in the said recited act to the contrary thereof notwithstanding; and all such penalties shall be paid or remitted to the solicitor of stamps in the manner directed by the said act, and shall be deemed to be part of his majesty's revenue arising from stamp duties, and shall accordingly be accounted for and paid by the said solicitor to the receiver general of stamp duties: provided always, that it shall be lawful for the commissioners of stamps, at their discretion, to give all or any part of any such penalties as rewards to any person or persons who shall have detected the offences for or in respect of which such penalties shall have been incurred, or who shall have given information which may have led to the discovery thereof or to the conviction of the offenders." [See the other clauses, title "*Hackney Coaches*," Vol. III.] *3 & 4 Wil. 4, c. 48. Application of penalties.*

By 2 & 3 Wil. IV. c. 120, s. 43, "no luggage which shall be carried on the top or roof of any stage carriage drawn by four or more horses shall in any case exceed ten feet and nine inches in height from the ground, nor shall any luggage which shall be carried on the top or roof of any stage carriage drawn by two or three horses only in any case exceed ten feet and three inches in height from the ground, measuring to the highest point of any part of such luggage when placed upon the top or roof of any such carriages respectively; and if any such luggage shall in either of the cases aforesaid exceed the height by this act in that behalf limited, the driver of such carriage at the time when such offence shall be committed shall forfeit 5*l*." *Luggage on the top of any stage carriage shall not exceed the height herein specified. Penalty 5*l*.*

Sect. 44. "It shall not be lawful for any person to sit or be carried upon any luggage placed on the roof of any stage carriage, nor upon that part of the roof allotted for luggage; and if any person shall sit or be carried upon any luggage or upon that part of the roof allotted for the same, contrary to the provisions of this act, he shall forfeit 5*l*., and the driver of such carriage at the time when such offence shall be committed shall also forfeit 5*l*." *No person to sit on luggage placed on the roof. Penalty 5*l*.*

Sect. 45. "The proprietor of any stage carriage and the driver thereof shall, when thereunto respectively required by any justice of the peace, or by any constable, or any surveyor of any highway or turnpike road, or by any toll-gate keeper, or any officer of stamp duties, or by any passenger travelling with such carriage, permit and allow such carriage and the luggage thereon to be measured, and the number of passengers in, upon, or about such carriage to be counted; and it shall be lawful for any passenger to require the driver of any stage carriage to stop the same at any toll gate, and to require the toll-gate keeper at such gate to count the number of passengers upon the box, and in, upon, or about such carriage, and to measure and ascertain the height of the luggage thereupon, and to sign a memorandum in writing of the number of such passengers in the inside and on or about the outside of such carriage (distinguishing the number on the box) and of the height of such luggage, and to deliver such memorandum to the person so requiring the number of passengers to be counted or the height of the luggage to be measured; and the toll-gate keeper at every such gate shall provide and keep at such gate a proper measure for measuring the height of any stage carriage and of the luggage thereupon; and if any proprietor of any stage carriage or the driver thereof shall, when thereto respectively required as aforesaid, refuse to permit and allow such carriage and the luggage thereupon to be measured, or the number of inside or outside passengers to be counted, or if such driver shall, on being so required as aforesaid, refuse or neglect to stop such carriage at any toll gate for the pur- *Justices, road surveyors, toll collectors, &c., authorized to cause stage carriages and luggage to be measured and the passengers to be counted. Penalty on the proprietor or driver for refusal, 5*l*.*

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and Post
Horses.*

3 & 4 Wil. 4, c. 48.

Penalty on toll-
gate keeper neg-
lecting to provide
a measure, or re-
fusing to count
passengers, or to
measure luggage,
&c., 5*l*.

Enactments as to
plates, inscrip-
tions, outside pas-
sengers and lug-
gage, not to ex-
tend to certain
mail coaches.

Penalty on driver
quitting the box
before a proper
person shall stand
at the horses'
heads;

or permitting any
person to drive, or
quitting the box;

or concealing or
misplacing plates:

on guard dis-
charging fire arms
unnecessarily;

on neglecting to
take care of lug-
gage, or asking
more than the
proper fare;

or neglecting to
account to his
employer;

or assaulting or
using abusive lan-
guage to any
person.

Penalty on the

pose aforesaid, such proprietor or such driver so refusing or neglecting as aforesaid shall forfeit 5*l*.; and if any toll-gate keeper shall neglect to provide and keep at any such gate a proper measure for the purposes aforesaid, or shall on being thereunto requested as aforesaid, refuse to count the number of such passengers, or to measure and ascertain the height of such luggage, or to sign a memorandum in writing of the number of such passengers or of the height of such luggage in manner hereinbefore directed, or to deliver such memorandum so signed to the person entitled to require the same, or shall sign or give any memorandum in which any of the particulars aforesaid shall not be truly set forth, every such toll-gate keeper so offending shall forfeit 5*l*.: provided always, that it shall not be lawful for any one passenger to require the driver of any stage carriage to stop the same for any such purpose as aforesaid more than once during any one journey, unless after the counting of such passengers or the measuring of such luggage any additional passenger or passengers shall be taken up, into, or upon such stage carriage, or additional luggage shall be placed on the top or roof thereof during the same journey."

Sect. 46. Provided always, "that none of the regulations in this act contained relating to the plates to be fixed upon any stage carriage, or to any of the particulars to be painted upon any stage carriage, or relating to the placing of outside passengers or the luggage to be carried on the roof of any stage carriage, shall extend to any mail coach employed in the service of the general post office, built or constructed according to the regulations of the postmaster general, and carrying not more than four outside passengers."

Sect. 47. "If the driver of any stage carriage drawn by three or more horses shall at any place where such carriage shall stop quit the box of such carriage, or the horses drawing the same, without delivering the reins into the hands of some fit and proper person, or before some fit and proper person shall be placed and shall stand at the heads of the horses or some of them belonging thereto, and shall have the command thereof; or if any person so placed and standing at the heads of such horses shall leave such horses before some other proper person shall be placed and stand in like manner and have the command of such horses, or before the driver of such stage carriage shall have returned and seated himself upon the box and taken the reins; or if the driver of any stage carriage shall permit any passenger or any person other than himself to drive the horses drawing such carriage; or if the driver of any stage carriage shall quit the box of such carriage without reasonable occasion, or for a longer time than such occasion shall absolutely require; or if the driver of any stage carriage shall suffer any plate or the number on any plate fixed or placed thereon pursuant to this act to be in any manner concealed from public view, or shall suffer any such plate to be inverted, or so fixed or placed that the number thereon shall not be plainly and distinctly legible; or if any person travelling as guard to any stage carriage shall, whilst the horses are harnessed or in the act of being harnessed thereto, and whilst any passenger shall be in, upon, or about such carriage, discharge any fire arms, except for the necessary defence of such carriage or of the passengers or luggage being in or about the same; or if the driver or conductor or guard of any stage carriage shall neglect to take due care of any luggage whatsoever carried or to be carried by such carriage; or if any such driver or conductor or guard shall demand or receive for the fare of any passenger more than the sum which such passenger shall be liable to pay, or more than the money properly chargeable for the carriage of any luggage; or if any such driver or conductor or guard shall, when thereto required, neglect or refuse faithfully to account to his employer for all monies received by him in respect of any passenger or any luggage which shall be carried by such carriage; or if any such driver or conductor or guard shall assault or use abusive or insulting language to any person travelling or about to travel or having travelled as a passenger with or by such carriage, or to any person accompanying or attending upon any such passenger in coming to or going from any such carriage, every such offender in any of the several cases aforesaid shall forfeit 5*l*."

Sect. 48. "If the driver or conductor or guard of any stage carriage, or

any other person having the care thereof, or employed in, upon, or about such carriage, shall, through intoxication or negligence, or by wanton and furious driving, or by or through any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the owner or proprietor of such stage carriage or of any other person, every such person so offending shall forfeit 5*l*."

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

driver or guard endangering passengers or property through negligence &c., 5*l*.

Occasioning accidents by furious driving, a misdemeanor.

The 1 Geo. IV. c. 4, intituled "An Act for punishing criminally Drivers of Stage Coaches and Carriages for Accidents by their wilful Misconduct," after reciting, that by the 50 Geo. III. c. 48, divers regulations and penalties were established and imposed to carry into effect the useful and highly important purposes thereby intended, and that it is expedient to extend the provisions of the said act, and to punish criminally coachmen, or persons having the care of stage coaches and other public carriages carrying passengers for hire, for accidents occasioned by their wilful misconduct, as after mentioned; enacts, "that if any person whatever shall be maimed or otherwise injured by reason of the wanton and furious driving or racing, or by the wilful misconduct of any coachman or other person having the charge of any stage coach or public carriage, such wanton and furious driving or racing, or wilful misconduct of such coachman or other person, shall be and the same is hereby declared to be a misdemeanor, and punishable as such by fine and imprisonment: provided always, that nothing in this act contained shall extend or be construed to extend to hackney coaches, being drawn by two horses only, and not plying for hire as stage coaches."

Hackney-coaches.

As to death occasioned by furious driving, &c., see "*Homicide*," Vol. III. p. 315, 316.

By 2 & 3 Wil. IV. c. 120, s. 49, whenever it shall happen that the driver or conductor or guard of any stage carriage shall have committed any offence against this act for the commission whereof any penalty is by this act imposed upon such driver or conductor or guard, and not upon the proprietor of such carriage, and such driver or conductor or guard shall not be known, or being known cannot be found, then the proprietor of such carriage shall be liable to every such penalty as if he had been the driver or conductor or guard of such carriage at the time when such offence was committed; provided always, that if any such proprietor shall make out, to the satisfaction of the justice of the peace before whom any complaint or information shall be heard, by sufficient evidence, not resting on his own testimony, that the offence was committed by such driver or conductor or guard without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or conductor or guard, and given all reasonable information in answer to inquiries respecting him, such justice shall discharge the proprietor from such penalty, and shall levy the same upon such driver or conductor or guard when found."

Owners to be liable for penalties in cases where driver or guard is not known or cannot be found.

Sect. 50. "The proprietor or company of proprietors of every railway in Great Britain along which any passengers shall, after the tenth day of October 1832, be conveyed for hire in or upon any carriage drawn or impelled by the power of steam, or otherwise, shall from time to time keep and cause to be entered in a book or books to be kept for that purpose, and which shall at all times be open for the inspection and examination of any authorized officer of stamp duties, a just and true account of the number of passengers which shall be conveyed daily for hire in manner aforesaid along any such railway or any part thereof, and of the number of miles which such passengers shall respectively be so conveyed; and every such proprietor or company shall, within five days next after the first Monday in every calendar month, deliver to the commissioners of stamps, or to such officer as they shall authorize to receive the same, a true copy of the account by this act directed to be kept, so far as the same shall relate to the passengers conveyed as aforesaid, during the

Proprietors of railways to keep and render accounts of the passengers conveyed along the same, and to pay the duty by this act charged thereon.

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

Proprietors of railways to give security to keep and render such accounts and pay duty.

Treasury may compound with the proprietors of railways for the duties chargeable on passengers con-

preceding four or five weeks (as the case may be), that is to say, from the first Monday in the preceding month up to and including the first Monday of the month in which such account shall be rendered; and to and with every such account there shall be annexed and delivered an affidavit or affirmation (to be taken before any one of his majesty's justices of the peace) of the secretary, chief clerk, or accountant of such proprietor or company, stating that the deponent or affirmant has examined and checked such account with the books of the said proprietor or company, and that to the best of the knowledge, information, and belief of such deponent or affirmant such account doth contain and is a true and faithful account of the several matters and things required by this act; and such proprietor or company shall at the time of delivering every such account pay or cause to be paid to the receiver general of stamp duties, or to the officer authorized by the said commissioners to receive the same for the use of his majesty, the duties chargeable under this act for or in respect of the passengers so conveyed according to such account."

Sect. 51. "The proprietor or company of proprietors of every such railway shall, before any passengers shall be conveyed along the same in manner aforesaid, after the tenth day of October 1832, give security by bond to his majesty, with a condition that such proprietor or company shall from time to time keep and cause to be kept and rendered in the manner directed by this act the accounts by this act required to be kept and rendered by such proprietor and company respectively; and that such proprietor or company shall from time to time, upon every reasonable request of any authorized officer of stamp duties, produce and show to such officer, and permit him to inspect and examine, all and every the books and book of such proprietor or company in which any such account shall be contained or entered; and that such proprietor or company shall well and truly pay or cause to be paid for the use of his majesty, at the times and in manner directed by this act, all and every the duties which shall from time to time become chargeable under this act for or in respect of the passengers which shall be so conveyed as aforesaid along such railway; and that such proprietor or company shall well and truly do and perform and cause to be done and performed all such acts, matters, and things as by this act are required or directed to be done or performed by or on the part or behalf of such proprietor or company; and every such bond shall be taken with sufficient sureties to the satisfaction of the commissioners of stamps, and in such sum as the said commissioners may judge to be the probable amount of the duties which may become payable by such proprietor or company under or by virtue of this act during the period of one quarter of a year; and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, or as the parties to the same or any of them shall die, or become bankrupt or insolvent, or reside in parts beyond the seas, and also whenever and so often as the said commissioners shall in their discretion require the same to be renewed; and if any proprietor or company of proprietors of any such railway as aforesaid shall, after the said tenth day of October, convey or permit or suffer to be conveyed in manner aforesaid, along such railway or any part thereof, any passengers for hire, without having first given such security by bond to his majesty in manner hereinbefore directed, or if any such proprietor or company shall refuse or neglect to renew such security, whenever and so often as the same is or shall by or in pursuance of this act be required to be renewed, such proprietor or company shall forfeit 100*l.* for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid."

Sect. 52. Provided always, "that it shall be lawful for the lords commissioners of his majesty's treasury, or any three or more of them, from time to time, where and whenever they shall deem it expedient, to compound and agree with the proprietor or company of proprietors of any such railway as aforesaid for any sum or sums of money less than the amount of the duties

which may be or become chargeable under this act, to be paid by such proprietor or company in lieu of the said duties for or in respect of the passengers conveyed or to be conveyed along such railway, during any period of time not exceeding the term of seven years, and from time to time to renew any such composition for any further period, not exceeding the term aforesaid, upon such terms and conditions as may be agreed upon by and between the said lords commissioners and such proprietor or company."

Sect. 53. "And for securing the duties granted by this act for and in respect of horses let for hire, and on licences to let such horses, be it enacted, that the said duties on horses let for hire shall be deemed to attach and be payable upon or in respect of every horse let for hire, or used either as a saddle horse or for drawing any carriage or vehicle conveying any person, and upon or in respect of every horse used for drawing any mourning coach or hearse, 'subject to the exemption immediately hereinafter mentioned; (that is to say,) provided always, that the said duties shall not be deemed to attach or be payable upon or in respect of any horse used in drawing any public stage carriage duly licensed under the authority of this act, nor upon or in respect of any horse used in drawing any hackney carriage which shall be duly licensed by the commissioners of stamps or their proper officer, where the same shall be used to go no greater distance than ten miles from the general post office in the city of London, provided such hackney car-

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2 & 3 Wil. 4, c. 120.

veyed on such railways.

On what horses let for hire duties shall be charged (a).

Exemptions.

(a) The following cases were recorded on the repealed statutes.

The words *travelling post* should be construed according to the popular acceptation of the term. (*R. v. Tooley*, 3 T. R. 69; see also *R. v. Webber*, 3 T. R. 72; *R. v. Cook*, 3 T. R. 519; *Hanley v. Cubberley*, 15 East, 257; *Ramsden v. Gibbs*, 1 B. & Cres. 319.)

Where the defendant, an inn-keeper, contracted with a coach proprietor to furnish him with two additional horses to assist in dragging a stage-coach, carrying the mail, up a hill about three quarters of a mile in length, in the course of each journey, for which he was to receive a guinea per week,—held, that such horses were not subject to the post-horse duty under either of the statutes 25 Geo. III. c. 51, or 44 Geo. III. c. 48 (now repealed), imposing such duty, as the stage-coach duty is to be regulated by the number of passengers such coach is licensed to carry, and not by the horses employed to draw it. (*Dowse v. Garrett*, 1 Bing. 107; 7 Moore, 441, S. C.) A coach licensed under a local act, to be used as a stage, is not protected by such licence from the post-horse duties, if hired wholly by an individual to perform a journey; and the proprietor is liable to account to the farmer of those duties for one-fourth of the hire, if let by him to carry out and bring back, notwithstanding such hiring may be to go to and return from some place within the distance and on the road to the place specified in his licence, and although he receive no greater hire than his fare would have been, had he proceeded full on the

usual journey as a stage. (*Fage v. Cokram*, 1 Price, 317.)

A composition for saddle-horses under the assessed tax-act, 59 Geo. III. c. 51, was held not to protect the owner of such horses from his liability to pay the duty imposed by the 1 Geo. IV. c. 88, s. 3, where the same horses were let to hire to be used in travelling. (*Ramsden v. Dodgkinson*, 2 D. & R. 625.)

Mourning coaches were not exempted under the 44 Geo. III. c. 98, by reason of carrying a corpse, if living persons went along in it. (*White v. Beasley*, 1 B. & Ald. 166.)

A carriage let to hire for less than twenty-eight days (not being let by the mile or stage), was not required to be numbered by the 48 Geo. III. c. 98. (*Sergeant v. Smirthwaite*, Wightw. 73.)

In *Smith v. Moss*, 3 M. & Sel. 15, it was considered that, under a deputation from the commissioners of stamps, authorizing H. and S., collectors of the post-horse duties, to grant licences to persons to let post-horses, a licence by H., for S. and self, was good enough.

In *Radford v. M'Intosh*, 3 T. R. 632, it was held, in an action brought for penalties on the post-horse act by the farmer of the tax, that it was not necessary for the plaintiff to give in evidence his appointment by the lords of the treasury or the commissioners of the stamp duties authorized by them; and that proof that the defendant had accounted with him as farmer of the duties was held sufficient.

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Mode of calculating duty where specific sums are charged for the hire of horses and carriages.

Horses kept beyond the period for which they were hired to be deemed retained on a new hiring.

By whom licences to let horses for hire shall be granted.

Date and continuance thereof.

Penalty on letting without licence.

On the death, &c. of a licensed postmaster, his representatives may act under his licence for thirty days.

Collectors of duties shall transmit accounts of persons licensed by them to the commissioners of stamps.

Penalty for neglect, 100*l*.

No licensed postmaster to let

riage shall be regularly and constantly used for the purpose of standing and plying for hire in the public streets or roads within the distance of five miles from the said general post office; nor shall the said duties be deemed to attach or be payable upon or in respect of any horse used in drawing any carriage kept or usually employed for the conveyance of fish."

Sect. 54. "In the case of calculating the amount of duty to be paid when the same is expressed in schedule (A.) to this act annexed to be one-fifth part of the sum charged for the letting of any horse for hire, such one-fifth part shall be calculated upon the whole sum charged for and in respect of such horse so let for hire, and of the carriage (if any) used therewith; and that in calculating the amount of such duty no fractional part of any sum of money amounting to a less sum than one penny shall be charged; and that in all cases the inn, house, or other place at which any person shall be licensed to let horses for hire shall be deemed to be the place of letting for hire of every horse by him so let for hire; and that where any horse which shall have been let for hire at any period of time shall be retained and kept beyond the expiration of the time for which the same shall have been let for hire, without a new hiring, such horse shall be deemed, so far as relates to the duties imposed by this act, to have been retained and kept upon a new hiring, similar to that for which such horse was originally let for hire."

Sect. 55. "And be it enacted, that the commissioners of stamps, or any two or more of them, or any collector or other officer of stamp duties duly authorized by the said commissioners for that purpose, shall grant to any person who shall apply for the same a licence to let horses for hire; and all such licences which shall be granted between the 31st day of January and the 16th day of March in any year shall be dated on the 1st day of February in that year, and all such licences which shall be granted at any other time shall be dated on the day on which the same shall be granted; and all such licences respectively shall have effect and continue in force from the day of the date thereof until the 31st day of January next ensuing, both inclusive, and no longer; and no person required by this act to be so licensed shall, unless he shall have obtained a proper licence in that behalf, let any horse for hire to be used in any of the cases aforesaid, upon pain to forfeit for every horse so let for hire as aforesaid the sum of 10*l*.; and every person so licensed shall be deemed a licensed postmaster within the meaning and for all the purposes of this act."

Sect. 56. "If any licensed postmaster shall die, or become bankrupt or insolvent, it shall be lawful for his executor or administrator, assignee or trustee, or for any other person succeeding to or taking possession of his inn, house, or other place, to let horses for hire in manner aforesaid until such person shall procure such licence as hereinbefore directed; and such person shall not be liable to the penalty imposed upon persons letting horses for hire without being licensed in that behalf, provided such licence be taken out within thirty days next after the death, bankruptcy, or insolvency of any such licensed postmaster; and such person shall be subject to the same rules, regulations, and charges, and shall be liable to account for and pay the duties hereby imposed, in like manner as such deceased or bankrupt or insolvent postmaster was subject and liable to."

Sect. 57. "Every collector of the duties on horses let for hire shall from time to time, once in every three months, make out and deliver or transmit to the commissioners of stamps at the head office for stamps in Westminster an account or list, in writing, of all the licences granted by him as such collector to any person to let horses for hire, and such list or account shall specify the christian names and surnames of the persons licensed, their places of residence, the names of the inns (if any), or other places at which they shall be licensed to let horses for hire, and the date of every such licence; and any collector who shall neglect or refuse to deliver or transmit any such account or list in manner aforesaid shall forfeit 100*l*."

Sect. 58. "No licensed postmaster shall by virtue of any such licence

be authorized to let any horse for hire at any inn, house, or place not specified in such licence, and that for and in respect of every inn, house, or other place at which any such postmaster shall let any horse for hire a separate and distinct licence shall be taken out by such postmaster under this act; and if any person shall let any horse for hire at any inn, house, or place not named or described in some such licence granted to him, he shall forfeit 20*l*."

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2 & 3 Wil. 4, c. 120. horses at more than one place by virtue of one licence.

Penalty 20*l*.

Licensed postmaster to have the words "Licensed to let Horses for Hire" painted on a sign or board.

Penalty for neglect, 5*l*.

Carriages kept to be let with horses shall be numbered, and have the name, &c. of the postmaster painted thereon.

Penalty on the postmaster for neglect, or for painting a false name, &c. 10*l*.

Commissioners or their officers to supply postmasters and toll-gate keepers with proper tickets.

Sect. 59. "Every licensed postmaster [see sect. 117, *post*, 758] shall cause his christian name and surname, together with the words 'Licensed to let Horses for Hire,' to be painted in legible characters of at least two inches in height, and of a proper and proportionate breadth, upon a sign or board either hung out from or fixed upon some conspicuous part of the front of the house, stables, or out-offices at every inn, house, or place at which such postmaster may be so licensed, in order to denote that such person is a letter of horses for hire at such inn, house, or place; and any licensed postmaster who shall let for hire any horse at any inn, house, or place without having such sign or board hung out or fixed as aforesaid shall forfeit 5*l*."

Sect. 60. "Where any licensed postmaster shall keep any carriages to be furnished at the same time with any horse or horses by him let for hire by the mile (except hearses and mourning coaches), such postmaster shall, before any such carriage shall be so furnished or used, cause all such carriages to be numbered with progressive numbers, beginning with number one, and proceeding upwards to the highest number of carriages which such postmaster shall so keep, and shall also paint, in one or more straight line or lines on the outside pannel of each door of every such carriage which shall have a door thereto, and on some conspicuous part outwardly on each side of every such carriage which shall not have a door thereto, the christian name and surname of such postmaster, and the name of the city, town, or place where such carriage shall be kept, in legible characters and figures of a colour different from and opposite to the colour of the ground whereon the same shall be painted, each letter to be at least one inch in height, and each figure to be at least one inch and a half in height, and each of a proportionate breadth; and such postmaster shall continue such letters and figures on every such carriage so long as such carriage shall be kept for the purpose aforesaid, varying the numbers on such carriages from time to time as occasion shall require, so as to make the same correspond with the actual number of such carriages which he shall then keep; and if any licensed postmaster shall neglect or omit to number or paint any such carriage in manner aforesaid, or shall paint or cause to be painted thereon any false or fictitious name or place of residence, or any higher number than the greatest number of such carriages which he shall then keep, or if any licensed postmaster shall keep two or more such carriages with the same number painted thereon, or shall continue any number upon any such carriage after he shall cease to keep any number of such carriages corresponding therewith, he shall forfeit 10*l*."

Sect. 61. "The commissioners of stamps or their officers shall supply all such licensed postmasters with proper tickets, and shall also supply all toll-gate keepers with proper exchange tickets and check tickets; and that the tickets in respect of every horse or of any number of horses let for hire by the mile shall be adapted for the insertion of the number of miles and the name of the town or place to which every such horse shall be hired to go, and if to London, the name of the street, square, or place therein; and that the tickets in respect of every horse or of any number of horses let for hire for any period of time, or in any other manner than by the mile, shall be adapted for the insertion of the names of the places from and to which every such horse shall be hired to go or to go to and return from, the day or number of days for which every such horse shall be let for hire, and if such hiring shall be for any period of time exceeding one day, then for the insertion of the name and place of residence of the person hiring such horse, and the day upon which the hiring shall commence; and all such tickets,

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Exchange tickets
to be adapted for
the insertion
therein of certain
particulars.

Postmaster shall
deliver tickets
with hire of
horses.

Penalty for neg-
lect, 10*l*.

No person shall
pay hire for more
miles than ex-
pressed in the
ticket.

Penalty for not
filling up the
ticket truly.

Persons using
hired horses shall
deliver the tickets
at the first toll
gate and receive
check tickets.

Toll-gate keepers
shall demand
tickets, and give
check tickets in
exchange.

Persons not to pass
gates without pro-
ducing tickets, or
paying 1*s*. 9*d*. for
every horse.

in the several cases aforesaid, shall also be adapted for the insertion of the number of horses let for hire, the day of the month, the month and year on which every such horse shall be so let for hire, and the christian name and surname and place of residence of the person letting the same; and the ticket herinafter required to be given by any toll-gate keeper in exchange for any ticket delivered to him shall be adapted for the insertion of the name of the county in which the toll gate at which such exchange ticket shall be given is situated, together with the name of such toll gate, the day of the month, the month and year upon which the hiring shall be or commence, the number of horses, the day or number of days, the names of the places from and to which every such horse shall be hired to go or to go to and return from, the number of miles, and the names and residences of the persons letting and hiring every such horse, as the said particulars, or any of them, shall be expressed in the original ticket."

Sect. 62. "Every licensed postmaster who shall let any horse for hire shall, by himself or his servants previous to the using of any such horse, deliver to the person hiring such horse, or to the postillion or person to be employed to drive such horse, a ticket properly filled up with respect to all the particulars hereinbefore mentioned which shall be applicable to the hiring of every such horse; and any postmaster who shall neglect or refuse to deliver such ticket according to the directions of this act shall forfeit 10*l*."

Sect. 63. "No person hiring any horse shall be compelled to pay for a greater number of miles for the hire of such horse than shall be expressed upon the ticket by this act directed to be delivered as aforesaid, relating to the hiring of such horse; and any licensed postmaster who shall insert or cause or permit to be inserted in any such ticket the name of any other town or place than the town or place to which or to and from which the horse shall be hired to go or to go and return, or a less number of miles than such horse shall be actually hired to go, shall forfeit 10*l*.; and it shall be lawful for the commissioners of stamps, if they shall so think fit, after conviction of such offender, to refuse to grant to him any such licence in future."

Sect. 64. "Every person who shall receive from the person letting any horse for hire any ticket relating to the hiring of such horse shall deliver or cause to be delivered every such ticket to the toll-gate keeper at the first toll gate through which such horse shall pass or go; and every person who shall deliver to any toll-gate keeper any such ticket as aforesaid, relating to the hiring of any horse let for hire in any other manner than by the mile, shall ask for and receive from such toll-gate keeper the proper exchange ticket or check ticket containing the several particulars hereinbefore mentioned, which shall be applicable to the hiring of any such horse, and every such exchange ticket or check ticket shall, on demand of the toll-gate keeper, be produced and shown at every toll gate through which such horse shall afterwards pass or go during the journey, or within the time for which such horse shall have been let for hire."

Sect. 65. "The keeper of every toll gate through which any horse let for hire shall first pass shall demand of the person using such horse, or of the postillion or person employed to drive the same, the ticket issued for and in respect of such horse; and every such toll-gate keeper shall deliver to the person using any horse let for hire in any other manner than by the mile, or to the postillion or person employed to drive such horse, an exchange ticket or check ticket properly filled up with respect to the particulars in that behalf hereinbefore mentioned, and shall receive such original ticket, and write his name thereon, and file the same; and it shall be lawful for the keeper of any toll gate to prevent any horse let for hire from passing through any such gate, unless the proper ticket, exchange ticket, or check ticket required by this act, containing and specifying the particulars in that behalf hereinbefore mentioned, which shall be applicable to the hiring of such horse, shall be first delivered or produced and shown to such toll-gate keeper, or the person using such horse shall pay to such toll-gate keeper 1*s*. 9*d*. in respect of every such horse, which sum such toll-gate keeper is hereby autho-

rized to demand and receive for his own use and benefit; and any toll-gate keeper who shall neglect to demand or shall refuse to receive any ticket by this act directed to be delivered to him, or who shall neglect or refuse to write his name thereon, or to file the same when delivered, or who shall neglect or refuse to give any ticket by this act directed to be given by him in exchange, or who shall deliver any exchange ticket or check ticket without having first received the necessary ticket containing the particulars in that behalf hereinbefore mentioned, or who shall make or suffer to be made any alteration whatever in any ticket after the same shall have come to his possession, or who shall deliver any ticket hereinbefore directed to be received and filed by him to any person other than the person duly authorized to receive the same, or who shall permit any person to inspect any ticket by him received and filed as aforesaid other than the person duly authorized to receive the same, or who shall demand or receive, or shall agree to take or accept, any less sum of money than he is by this act authorized to demand and receive and retain to his own use, shall forfeit 10*l*."

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Penalty on toll-gate keeper for neglecting to demand tickets, or for other improper conduct relative to such tickets, 10*l*.

Sect. 66. "If any person shall neglect or refuse to deliver at any toll gate any ticket which he ought, according to the provisions of this act, to deliver at such gate, or if any person shall falsely allege that any horse with which he shall pass any toll gate is not a hired horse, in order to avoid being stopped, or to avoid the payment of the sum which the toll-gate keeper shall be entitled to demand in default of any such ticket being delivered or shown, every person so offending shall forfeit 10*l*."

Penalty on persons neglecting to deliver tickets, or falsely alleging hired horses to be their own, 10*l*.

Sect. 67. "The keeper of every toll gate within the distance of five miles from the head office for stamps in the city of Westminster shall, at such times as shall be directed by the commissioners of stamps or their proper officer, bring or send all the tickets by him received to the said head office, or to such other place within the bills of mortality as the said commissioners or officer shall appoint; and the keeper of every toll gate beyond the distance of five miles from the said head office shall bring or send all the tickets by him received to such places and at such times as the collector appointed to collect such tickets shall require, provided such places shall not be at a greater distance than the nearest market-town, or shall, upon demand made to him for that purpose, deliver or cause to be delivered all such tickets as aforesaid to such collector; and any toll-gate keeper who shall neglect or refuse to bring or send or deliver, in manner aforesaid, all the tickets received by him, shall for every ticket he shall so neglect or refuse to bring, send, or deliver, forfeit 20*s*."

When and where toll-gate keepers shall deliver the tickets received by them.

Penalty 20*s*. per ticket.

Sect. 68. "Every toll-gate keeper shall be entitled to demand and receive from the collector to whom he shall bring, send, or deliver such tickets as aforesaid one farthing for and in respect of each horse specified in every ticket, and also one farthing for each such horse for every day more than one and less than twenty-eight successive days in such tickets mentioned, and such collector is hereby required to pay or allow such sums accordingly."

Allowances to be made to toll gate keepers for the tickets delivered by them.

Sect. 69. "In and across any public road on which any toll gate shall not be erected sufficient for the purposes of this act it shall be lawful for the commissioners of stamps to cause gates and bars to be erected for the receipt of the tickets directed to be issued in pursuance of this act, and to place a proper person at every such gate or bar, who shall have power and authority to collect such tickets, and to demand the money from the traveller for not producing and showing any such ticket, in like manner as any toll-gate keeper is by this act authorized to collect and demand the same; and every such person shall be subject to the same penalties for any thing done or omitted contrary to this act as any toll-gate keeper is by this act subject and liable to, and every such gate or bar shall be deemed and taken to be a toll gate for all the purposes of this act."

Commissioners of stamps may erect gates in certain cases for the receipt tickets.

Sect. 70. "Where any licensed postmaster shall let for hire any horse for twenty-eight successive days or more, and such horse shall be returned to such postmaster before the expiration of the time for which such horse shall have been so let for hire, such postmaster, at the time of receiving back such

When horses hired for twenty-eight days or more are returned within that period,

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the check ticket
shall be delivered
up to the col-
lector.Penalty on post-
master for neg-
lect, 20*l*.Penalty for using
a check ticket
fraudulently, 50*l*.Postmasters to
account for tickets
delivered to them,
and to re-deliver
to the collector
such as remain
unaccounted for,
or to pay the value
thereof.Penalty for neglect
or refusal, 10*l*.Penalty for forging
tickets, 50*l*.Commissioners of
stamps shall deli-
ver to licensed
postmasters forms
of account, adapt-
ed for the inser-
tion of certain
particulars
therein.

horse, shall ask for and receive from the person so returning such horse the check ticket received by such person in exchange for the original ticket delivered to him on the letting of such horse, and shall, within three days after the return of such horse, deliver up or transmit such check ticket to the collector of the said duties to whom he ought to deliver his stamp office weekly account; and if any licensed postmaster shall refuse or neglect to ask for such check ticket, or, having received the same, shall refuse or neglect to deliver up or to transmit the same to the said collector within the time aforesaid, he shall forfeit 20*l*.; and if such postmaster shall use any such check ticket, or shall permit the same to be used, or shall give out the same to any person, for the purpose of being used to cover and protect any other letting for hire from the duty hereby granted, such postmaster shall forfeit 50*l*."

Sect. 71. "Every licensed postmaster shall from time to time, whenever he shall be thereunto requested by any collector or other authorized officer of stamp duties, as well during the continuance of any licence to such postmaster as at or after the expiration thereof, well and faithfully account to such collector or officer respectively for all the tickets which shall have been delivered to such postmaster, in pursuance of this act, under or in consequence of any such licence as aforesaid; and such postmaster shall also, on demand, re-deliver to such collector or officer all such tickets as shall not be satisfactorily accounted for in manner aforesaid, or in default thereof such postmaster shall be liable to pay for every ticket not accounted for as aforesaid after the rate of 1*s*. for every horse specified or expressed by figures or otherwise upon such ticket and in the receipt given by such postmaster for the same; and such rate or sum of 1*s*. for every horse specified or expressed as aforesaid shall be deemed to be the value of every such ticket, and shall be a debt due to his majesty from such postmaster, and shall be recovered accordingly; and if any such postmaster shall neglect or refuse to account to such collector or officer in the manner directed by this act for every or any such ticket as aforesaid, or shall neglect or refuse to pay to such collector or officer the value of every or any such ticket as shall not be satisfactorily accounted for, and as shall not be re-delivered, on demand, to such collector or officer in the manner directed by this act, every such postmaster so offending shall forfeit 10*l*. over and above the value of every such ticket not so accounted for or re-delivered."

Sect. 72. "Any person who, with intent to defraud his majesty or any other person, shall falsely make, forge, or counterfeit, or shall cause or procure to be falsely made, forged, or counterfeited, or shall wilfully aid or assist in the false-making, forging, or counterfeiting of any ticket by this act authorized or directed to be used, or shall utter or publish as true any such false, forged, or counterfeited ticket, shall forfeit 50*l*."

Sect. 73. "The commissioners of stamps or their officer, at the time of issuing any licence to any postmaster, shall deliver to such postmaster papers, intituled 'Stamp Office Weekly Account,' which shall be adapted for the insertion of the following particulars relating to the horses which may be let for hire; (that is to say,) the day of the month, the month and the year of such letting for hire, the names of the towns or places from which and to which, or from which and to which and back again, such horses shall be hired to go, according as the hiring may be, the number of every carriage required by this act to be numbered, the christian name and surname of every postilion or driver employed, the amount of the sum charged for or in respect of every letting for hire, the number of horses let for hire, the number of days and the number of miles for which such horses shall be let for hire, and the amount of the duty payable for and in respect of every such letting for hire, as the case may be or shall require, according to the following form, or such other form as the said commissioners shall judge convenient for keeping such account:

STAMP OFFICE WEEKLY ACCOUNT.

[illegible]

Sect. 74. " Every licensed postmaster shall truly insert and set forth in such his stamp office weekly account the several particulars following ; (that is to say,) the day of the month, the month and year, on which every horse let for hire by him shall be let for hire, and from and to what place, or from and to what place and back again, every such horse shall be hired to go, the number of every carriage (which by this act is required to be numbered) which shall be furnished with any such horse, the christian name and surname of every postillion or driver employed with every such horse, the amount of the sum charged for the hire or use of every such horse, where in any case allowed by this act the postmaster shall elect to pay one-fifth thereof for the duty on such letting, the time for which the same shall be let for hire or used, the number of horses so let for hire, and where the distance shall be ascertained the number of miles within which the same shall be hired to go or to go and return, or such of the several particulars aforesaid as shall be applicable to each respective letting for hire, and in all cases the amount of the duty payable for and in respect of every horse upon every such letting for hire or using ; and whenever such licensed postmaster shall let any horse for hire for twenty-eight successive days or more he shall insert and set forth in such his stamp office weekly account the several particulars following ; (that is to say,) the number of horses so let for hire, the day of the month, the month and year, on which such hiring shall commence, the number of every carriage by this act required to be numbered which shall be furnished therewith, the christian name and surname of every postillion or driver employed with every such horse, the time for which the same shall be hired, and the name and place of abode of the person hiring the same ; and such postmaster shall also insert in every such account a memorandum or notice of every horse which shall have been let for hire by him for twenty-

Particulars to be inserted in the stamp office weekly accounts.

On letting horses for twenty-eight successive days or more.

Where horses let for twenty-eight successive days or

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more are returned before the expiration of the term.

Penalty for neglect, 20*l*.

Entries to be made on the day the horses are let or returned ;

Penalty, 40*s*.

Account to be open for the inspection of proper officers ;

Penalty, 10*l*.

When and where licensed postmasters shall deliver their accounts, and pay the duty thereon.

Penalty for default, 20*l*.

Postmaster to make a declaration of the truth of his account.

eight successive days or more, and which since the date of his last account shall have been given up and returned to him by the hirer before the expiration of the time for which such horse shall have been let for hire, and the day of the month on which the same shall have been so given up and returned, and also the amount of the duty payable in respect of the time during which every such horse shall have been under the direction of the person hiring the same by virtue of such letting for hire as aforesaid ; and in case of the neglect or omission of any licensed postmaster to insert in any such stamp office weekly account the particulars hereinbefore respectively mentioned, or any of them, applicable to each respective letting for hire, he shall for every such neglect or omission forfeit 20*l*."

Sect. 75. "Every licensed postmaster who shall let any horse for hire shall enter or cause to be entered, in such his stamp office weekly account, the several particulars by this act required to be inserted therein, on the day on which any such horse shall be so let for hire or so given up and returned as aforesaid, or on the day next immediately following, or in default thereof he shall forfeit 40*s*."

Sect. 76. "Every such stamp office weekly account of every licensed postmaster shall be open for the inspection and examination at all seasonable times of the commissioners of stamps, or any collector of the said duties, or any authorized officer of stamp duties ; and any postmaster who shall refuse to permit such commissioners or collector or officer, at any seasonable time, to inspect such his stamp office weekly account, shall for every such refusal forfeit 10*l*."

Sect. 77. "Every licensed postmaster residing within the distance of five miles from the head office for stamps shall attend and deliver his stamp office weekly accounts, and shall pay the duties for which he shall be accountable either to the commissioners of stamps at the said head office, or to some collector of the said duties, at such place and at such time as shall be appointed for that purpose by a notice to be given upon the blank forms of the stamp office weekly accounts, which shall from time to time be delivered to such postmaster for the purpose of making therein the entries required by this act, provided such place be not at a greater distance than two miles from the said head office ; and every licensed postmaster not residing within five miles of the said head office shall attend and deliver his stamp office weekly accounts, and shall pay the duties for which he shall be accountable to the collector of the said duties authorized to receive the same at such place in the market town in which such postmaster shall reside, or (in case he shall not reside in a market town) in the market town nearest to his place of residence, and at such time as shall be appointed for that purpose by a notice to be given in manner aforesaid, under the penalty of 20*l*. for every default in not attending to deliver or in not delivering any such account at the time and in manner aforesaid, and double the amount of the duties due and payable by such postmaster, so far as the same can be ascertained ; and in default of the delivery of any such account, the said duties may be computed by the tickets which such postmaster shall have issued or caused to be issued, under the provisions of this act, by calculating the rate of duty imposed by this act upon the number of horses, and for the number of miles or days, or otherwise, as the case may be, specified or expressed upon such tickets respectively, without regard to the option of such postmaster, in any case, of paying one fifth part of the sum charged for the hire of any of such horses for the duty on the letting thereof."

Sect. 78. "Every licensed postmaster shall, at the respective times of delivering his account and paying the money due thereon, make and subscribe, in the presence of the collector or other officer authorized to receive such account, a declaration of the truth of the account then delivered in the form following :

' I, A. B., do declare, that the stamp office weekly account hereunto annexed doth contain a just and true statement of the number of horses which have been let for hire by me or my servants, or on my account and behalf, from the

day of to the day of , both inclusive, together with the manner *Stage Coaches*
in which such horses have been so let for hire as aforesaid; and also the full *and Post*
amount of the duty due and payable by me, or for which I am chargeable or *Horses.*
accountable, in respect of every such horse so let for hire by me or on my account
as aforesaid during the time aforesaid.' 2 & 3 Wil. 4, c. 120.

And if any licensed postmaster shall refuse to make and subscribe such declaration in the manner by this act required, it shall nevertheless be lawful for the collector or other such officer as aforesaid to demand and receive the money due upon such account, and such postmaster shall forfeit 20*l.* for such refusal." Penalty for refusal, 20*l.*

Sect. 79. Provided always, "that it shall not be lawful for any person to inform, sue, or prosecute, either in any court of record or before any justice of the peace, or otherwise, for recovery of the said penalty of 20*l.* and double duty for any default in not attending to deliver or in not delivering any such account as aforesaid, or for recovery of the said penalty of 20*l.* for refusing to make and subscribe any such declaration as aforesaid, without having first obtained the consent in writing of two or more of the commissioners of stamps for that purpose, unless the action, suit, or prosecution for any such penalty as aforesaid shall be carried on by the solicitor of stamps in England or Scotland respectively; any thing herein contained to the contrary thereof notwithstanding." Consent of the commissioners of stamps requisite to prosecute for the two last-mentioned penalties.

Sect. 80. "The commissioners of stamps, or the collectors or other officers aforesaid, at the time of their settling the respective accounts of the several licensed postmasters in manner hereinbefore mentioned, shall allow to such postmasters, for their own use and benefit, and shall deduct from the amount payable by them on such their respective accounts, after the rate of threepence in the pound out of the monies by them regularly accounted for and paid pursuant to the directions of this act." Allowance to be made to postmasters out of the monies duly accounted for and paid.

Sect. 81. "Every licensed postmaster who shall wilfully conceal the letting of any horse for hire, or who shall make or render any false or fraudulent account touching or concerning the duties payable by him upon or in respect of horses let for hire, or who shall be guilty of any other fraudulent contrivance, device, or pretence whatsoever, with intent or design to defraud his majesty, or any person, of any of the duties imposed by this act for or in respect of horses let for hire, shall forfeit fifty pounds; and it shall be lawful for the commissioners of stamps, if they shall so think fit, after judgment obtained against the offender, to refuse to grant any fresh licence to any such offender in future." Penalty on postmasters for wilful frauds.

Sect. 82. "Every person letting any horse for hire shall be chargeable with the payment of the duty by this act imposed with respect of every such letting for hire, whether such person shall receive such duty or not, and every person who shall receive the hire for any horse shall be considered as the person to whom the duties by this act granted shall be paid, and shall be chargeable with the same as if such person were the actual proprietor of such horse, although the same may be the property of some other licensed person; and whenever it shall happen that any licensed postmaster at whose inn or residence any person shall apply to change horses cannot furnish horses to convey such person on his journey, and such person shall proceed on his journey with horses hired at and coming from any other inn or place, such licensed postmaster shall issue to any person demanding the same a fresh ticket, properly filled up, for the next stage of such journey, and shall receive the duty payable in respect thereof, and shall charge himself with such duty in the same manner as if such horses had been hired from such postmaster." Persons letting horses shall be chargeable with the duty thereon.

Sect. 83. "If any person not licensed to let horses for hire shall let any horse for hire, such person shall be chargeable with the duty by this act made payable for and in respect of every horse which shall be so let for hire in the same manner as if he had obtained such licence as aforesaid, and whether such duty shall be received from the person hiring such horse or not; and every such person so letting any horse for hire shall, upon one Postmaster who cannot furnish horses shall give tickets for horses furnished by others, and receive the duty thereon.

Persons not licensed letting horses for hire shall be accountable for the duties.

Account to be de-

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2 & 3 Wil. 4, c. 120.

livered on a
week's notice
from the collector,
verified on oath.

Penalty for neg-
lect, 20*l.*, and
double duties.

Indemnity on ac-
counting for the
duties and taking
out a licence.

Composition to be
paid for horses
used in carriages
standing for hire
as hackney car-
riages in country
towns, and not
going more than
five miles from
the general post
office there.

Persons using
horses in drawing
such carriages to
take out a licence
for that purpose,
and to paint their
names, &c., on
their carriages.

Horses so used
not to be exempt
from the general
duties imposed by

week's notice in writing for that purpose to him given by any collector of the said duties for the county, district, or place where he shall so let any horse for hire, deliver to such collector a true account in writing, signed by such person, of every such horse which he shall have let for hire and shall not then have already accounted for, and of the manner in which every such horse shall have been let for hire, and of the duty payable in respect thereof, in the same manner as by this act is required to be done by licensed postmasters, and shall also verify such account by oath (to be administered by such collector), and shall thereupon pay to such collector the amount of such duty; and in case of any refusal or neglect so to do, then he shall forfeit twenty pounds for every default in not delivering such account verified as aforesaid, and double the amount of the duty which he shall be then chargeable with: provided always, that where any such notice shall have been given as aforesaid, then upon the delivery of such account in pursuance of such notice, and upon payment of all duty due thereon, and upon taking out such licence as ought to have been taken out previously thereto, the person so delivering such account shall be discharged from any penalty which he may be then liable to in consequence of having let for hire any horse mentioned in such account without having obtained such licence as aforesaid."

Sect. 84. "Every person in any city, town, or place, who shall let for hire or use any horse for drawing any carriage to be used as a hackney carriage to any distance not exceeding five miles from the general post office of any such city, town, or place, shall be subject and liable to the payment of the sums following, in lieu of and as a composition for the duties by this act chargeable upon horses let for hire; (that is to say,) the sum of five shillings per week for or in respect of all or any horses let for hire, or used for drawing every such carriage when drawn by two horses; and the sum of three shillings per week for or in respect of any horse or horses let for hire, or used for drawing any such carriage when drawn by one horse; and such person shall not be required, in respect of such horses so let for hire or used as last aforesaid, to keep the weekly accounts hereby directed to be kept or to deliver the tickets hereby directed to be delivered by persons letting horses for hire: provided always, that if any horse used for drawing any such carriage shall go a greater distance than five miles from any such general post office as aforesaid, the person letting for hire or using any such horse shall be subject to all the rules and regulations of this act in respect of horses let for hire, and shall be chargeable with the duties by this act imposed in respect of horses let for hire: provided also, that the person letting for hire or using any horse for drawing any such carriage as aforesaid, shall take out a licence expressly authorizing him so to do, and shall cause every such carriage to be numbered, and shall cause his christian name and surname, and the name of the city, town, or place, to be painted and inscribed upon the outside pannel of each door, or upon some conspicuous part of such carriage, in like manner as by this act is before directed in respect of carriages kept to be furnished or used with horses let for hire, and under and subject to the like penalties as are by this act imposed upon persons neglecting to take out licences, or neglecting to number or cause to be numbered any carriage kept to be furnished or used as aforesaid, or neglecting to paint or cause to be painted thereon the name of the person letting for hire or using any such horse with such carriage, and the name of the city, town, or place, where such carriage shall be kept; and every person letting or using any horse for hire, for drawing such carriage used as a hackney carriage as aforesaid, shall attend and pay the said weekly duties at such times and places as persons licensed to let horses for hire are required by this act to do, and shall be subject to the like penalty for any neglect or default in attending and paying such duties as aforesaid: provided also, that nothing herein contained shall extend to exempt from the payment of the general duties by this act imposed in respect of horses let for hire any person letting horses for hire to draw any such carriage, unless such carriage shall be regularly and constantly used for the purpose of plying

for hire in the public streets of some city or town as a hackney carriage ; and that in all informations, actions, suits, or other proceedings whatsoever respecting the payment of any duty, or the recovery of any penalty, in respect of any horse used in drawing any such carriage, the proof of such carriage being regularly and constantly used for the purpose aforesaid shall be upon the person letting such horse for hire: and provided also, that nothing herein contained relating to the payment of such composition as aforesaid shall extend to any horse or horses used for drawing any hackney carriage at any place within the distance of five miles from the general post office in the City of London."

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this act, unless the carriages are regularly used for plying.

Not to extend to hackney carriages in London (a).

Duties on horses let for hire not exceeding 50*l.* recoverable by distress, on complaint made before a justice of the peace.

Sect. 85. "If any person liable under the provisions of this act to account for and pay any duty, not exceeding in amount the sum of 50*l.*, for or in respect of horses let for hire, shall refuse or neglect to account for and pay such duty according to the directions of this act, it shall be lawful for any justice of the peace having jurisdiction where such horses shall have been let for hire, and such justice is hereby required, on complaint made to him, to summon the party complained of, and any witnesses on either side, to be and appear before the said justice or before any other justice of the peace at a time and place to be appointed for that purpose; and either on the appearance of the party complained of, or in default thereof, it shall be lawful for such justice, or any other justice present at the time and place appointed for such appearance, to proceed to examine into the matter of fact, and on due proof being made of the sum due and owing for such duty as aforesaid by the voluntary confession of the party, or by the oath of one or more witness or witnesses, to grant a warrant to any constable or other peace officer, or to any collector of the said duties, or any other officer of stamp duties, directing him to distrain every such person by his goods and chattels, and also to seize and take the carriages, horses, harness, and other things by this act made subject and liable to such duty for the amount thereof, and of all the costs, charges, and expenses of obtaining such warrant, and of the proceedings incident or relating thereto; and it shall be lawful for such constable or other peace officer, or collector or officer of stamp duties, and he is hereby required, to make such distress and seizure accordingly, and the distress so to be taken to detain and keep for the space of five days, at the costs and charges of the person distrained upon; and if the amount of such duty, and of all the costs, charges, and expenses aforesaid, shall not be paid within such space of five days, then such constable or other peace officer, or collector or officer of stamp duties, shall cause the goods and chattels, carriages, horses, harness, and other things so seized or taken, to be sold in the manner directed by this act, and shall render the overplus (if any) of the money arising by the sale thereof, after deducting and retaining the amount of such duty, and all the costs, charges, and expenses aforesaid, as well as the charges and expenses of the sale, to the person so distrained upon, or to the owner of the carriages, horses, harness, or other things so seized and taken as aforesaid; and for the purpose of taking such distress it shall be lawful for such constable or other peace officer, and for such collector or officer of stamp duties, in the presence of any constable or other peace officer, where any refusal or resistances shall be made, to break open, in the day-time, any house, building, or place where any such carriages, horses, harness, or other articles and things, or any goods or chattels to be seized or taken under such warrant as aforesaid, shall be; and if no distress can be had or taken whereon to levy such duty, costs, charges, and expenses, or in case an insufficient distress only can be found and shall be taken, then it shall be lawful for the justice by whom such warrant shall be granted to commit the person by or from whom such duty, costs, charges, and expenses, or any part thereof, shall remain due or owing, to the common gaol or house of correction, there to remain until all such duty, and all costs, charges, and expenses, or so much

For want of sufficient distress, the defaulter to be committed to gaol.

(a) As to hackney coaches, see "*Hackney Coaches*," Vol. III.

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

The duties on
horses let for hire
may be let to
farm.

Notice of letting
to be inserted in
the Gazette.

Proposals to be
delivered three
days previous to
letting.

Mode of proceed-
ing in putting up
the duties.

The highest bid-
der to execute a
contract to farm
the duties, and
give security for
the performance
thereof.

Deposit to be
made by persons
farming the duties.

thereof as shall remain, after deducting therefrom the proceeds of the sale of any insufficient distress which may have been taken and sold, shall be fully paid and satisfied."

Sect. 86. "From and after the passing of this act it shall be lawful for the lords commissioners of his majesty's treasury, at any time and from time to time, as it shall be thought expedient, either by themselves or by the commissioners of stamps by them authorized for that purpose, to let to farm the several duties by this act granted in respect of horses let for hire to any persons who shall be willing to farm the said duties or any part thereof in separate divisions or districts, according to the regulations and in the manner hereinafter mentioned: provided always, that it shall not be lawful to let to farm the said duties or any part thereof, at any one time, for any longer period or term than three years from the day on which any such letting to farm shall commence and take effect."

Sect. 87. "A notice of one calendar month at least shall be given by the said lords commissioners of the treasury or by the commissioners of stamps, in the London Gazette, of the time and place of letting to farm the said duties or any part thereof, specifying the divisions or districts the duties within which it is intended to let to farm, and also the place or office at which proposals for taking to farm such duties, or any part thereof, shall be delivered."

Sect. 88. "No such proposals shall be proceeded upon unless the same be signed by and in the proper names of the parties proposing to become bidders, and specifying the places of their abode, nor unless such proposals shall have been delivered as aforesaid at least three days previous to the day mentioned in the London Gazette for letting to farm the duties to which such proposals shall relate."

Sect. 89. "The biddings for such duties shall be conducted under such regulations as shall be established for that purpose by the lords commissioners of the treasury, or by the commissioners of stamps duly authorized as aforesaid, and that the person who shall be the highest bidder shall be the farmer or renter of the said duties, or such part thereof as shall be then put up to farm, for such term, not exceeding three years as aforesaid, as may be determined on, and as shall be inserted in the London Gazette; and such person shall execute a contract, to be prepared in pursuance of this act, containing such covenants, provisoes, and conditions as the said lords commissioners, or the commissioners of stamps authorized as aforesaid, shall deem necessary or expedient for securing the payment of the money or yearly rent contracted for, as well as for securing and compelling a due compliance with the terms and regulations of this act; and such person shall also give security by bond to his majesty, with three or more sufficient sureties, to the satisfaction of the said lords commissioners or of the commissioners of stamps, for securing the performance of the several covenants, clauses, and agreements contained in such contract, and also for securing the payment of the said money or yearly rent so contracted for to the receiver-general of stamp duties, at the head office for stamps in Westminster, in equal portions, by eight several payments in the year, on the days to be fixed and appointed, before any such letting to farm as aforesaid."

Sect. 90. "It shall be lawful for the said lords commissioners of the treasury, or the said commissioners of stamps authorized as aforesaid, to appoint the time for making a deposit of a sum of money, and the amount thereof, on account of the rent to be paid by the person who shall be declared the farmer of any of the said duties hereby allowed to be farmed; and in case any such person shall fail to make such deposit at the time appointed, or shall fail to execute a proper contract in writing, and to give satisfactory security for the payment of the rent, and the due performance of such contract, in the manner directed by this act, within the time to be appointed for that purpose, it shall be lawful for the said lords commissioners, or the commissioners of stamps authorized as aforesaid, to declare the bidding and contract of such person to be null and void, and the deposit thereon made (if any) to be forfeited."

Sect 91. "In case any of the said duties to arise in any district shall not be let to farm at the time mentioned in such advertisement for want of a sufficient bidding for such duties, or in case the bidding or contract of any person who shall have been declared the best bidder for or the farmer of any of the said duties shall be declared or shall become null and void, it shall be lawful for the said lords commissioners, or the commissioners of stamps authorized as aforesaid, from time to time, whenever any such event shall happen, to appoint such future day as they shall judge most proper for letting to farm the said duties to arise in such district in the manner and upon the like notice as hereinbefore directed, or to receive proposals for farming such duties, and to let the same to farm by private contract, for any such period of time as aforesaid: provided always, that no contract for letting to farm the said duties shall be made with any licensed postmaster, nor with any person for the use or on behalf of any licensed postmaster, nor so as that any licensed postmaster shall have any interest in or any benefit from any such contract, and any such contract made contrary to this act shall be utterly null and void; and if any contract made in pursuance of this act shall be assigned to any licensed postmaster, or to any other person for the use of any licensed postmaster, or so that he shall have any interest therein or any benefit therefrom, such assignment shall also be utterly null and void."

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If the duties be not let at the time fixed, or if the contract for farming the same be vacated, they may be put up again, or be let by private contract.

Duties not to be farmed by any persons licensed to let horses.

Sect. 92. "And in order to prevent disputes concerning the said duties when let to farm in cases where the same may be collected in one district or division and the tickets may be delivered in another district or division, be it enacted, that in such case the duties shall belong and the tickets issued thereupon shall be delivered and accounted for to the person who shall be the farmer of the duties arising within the district or division within which the inn, house, or other place shall be situate at which the postmaster shall be licensed; and every toll-gate keeper at whose gate or bar such ticket shall be delivered shall deliver the same to the farmer of the said duties, arising within such district or division as aforesaid, at such time and in such manner as such tickets are by this act directed to be delivered to the several collectors of the said duties when the same are not let to farm."

Duties shall belong to the district where the tickets are issued.

Sect. 93. "No person contracting to farm the said duties or any part thereof, or appointed a collector thereof, shall, by reason of such contract or appointment, be disqualified to vote at the election of any member to serve in parliament, any law or usage to the contrary thereof notwithstanding."

Farmers of the duties not to be disqualified.

Sect. 94. "It shall be lawful for the commissioners of stamps, from time to time as occasion shall require, to depute and appoint as well the persons who shall become farmers or lessees of the said duties, and their executors, administrators, and assigns, as any other persons approved by the said commissioners, upon the nomination and for the use of such farmers or lessees, or their executors, administrators, or assigns, to be collectors of the duties so farmed arising within the respective districts, with full power to grant the necessary licences to persons within the respective districts for letting horses for hire, and to receive the stamp office weekly accounts relating to the said duties by this act directed to be delivered by licensed postmasters within their respective districts, and to receive the money due thereon, and generally to execute and perform all other the powers, matters, and things touching the collecting, the managing, and enforcing the payment of the said duties within their respective districts, which by this act are authorized to be done by any collector of the said duties; and no deputation or commission appointing any person to be a collector of the said duties on horses let for hire shall be charged or chargeable with any higher stamp duty than 1*l.* 15*s.*: provided always, that it shall be lawful for the said commissioners to revoke the deputation or appointment and authority of any person deputed or appointed a collector of the said duties upon any such nomination as aforesaid whenever the said commissioners shall think fit so to do."

Commissioners of stamps may depute the farmers and other persons on their behalf to be collectors of the said duties.

Sect. 95. "It shall be lawful for such farmers or persons so farming the said duties or any part thereof, with the consent of the commissioners of stamps, to vary the form of keeping the weekly account directed by this act

Farmers may vary the form of keeping the weekly ac-

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count, and add the names of their districts on the tickets.

All the powers of collectors under this act may be exercised by the farmers of the duties.

What shall be proof that persons are farmers of the duties.

Officers neglecting their duty to be liable to actions.

Inspectors and collectors may enter toll houses, to check stage carriages and horses let for hire, and to receive tickets, &c.

Penalty for refusing to permit them to enter, or obstructing them in the discharge of their duty, 20*l*.

to be kept by the several licensed postmasters within their respective districts in such manner as such farmers shall judge most convenient for keeping such accounts, and also to add the name or number of their respective districts on the face or back of the tickets to be delivered by them to the several licensed persons in their respective districts."

Sect. 96. "All the powers, provisions, regulations, matters, and things given, prescribed, or appointed by this act with relation to the duties on horses let for hire, or to the persons appointed or to be appointed to collect the same, may be put in force and carried into execution by any person farming the said duties, or any part thereof, in like manner as any collector of the said duties is authorized and empowered by this act to put in force and execute the same; and every person farming the said duties or any part thereof shall be entitled to the same privileges, and to have and use the like remedies for collecting and recovering the duties by this act imposed, as if the duties were sued for by or on the behalf of his majesty, and as if such duties had not been let to farm."

Sect. 97. "It shall not be necessary, upon the trial or hearing of any information, action, suit, or other proceeding to be commenced for the recovery of any of the said duties on horses let for hire which shall be let to farm in pursuance of this act, or for the recovery of any penalty imposed by this act with relation to the said duties, to produce the instrument whereby the commissioners of stamps shall be authorized to let to farm the said duties or any of them, nor to prove the execution of any contract or agreement whereby any of the said duties shall be let to farm, nor to prove the execution of any assignment of any such contract or agreement, nor to prove the signatures of the said commissioners of stamps to any consent to prosecute for any such penalty as aforesaid: provided always, that such contract, agreement, or assignment, and consent to prosecute, shall be produced on the trial or hearing of any such information, action, suit, or proceeding, and it shall be made to appear that the person claiming or acting under such contract, agreement, or assignment had in fact acted as the farmer of the duties therein mentioned or some of them; and in every such case such proof shall be deemed and taken by the court or justice before whom any such trial or hearing shall be had to be good and legal evidence of such person being the farmer of the duties mentioned in such contract, agreement, assignment, or other instrument, unless by other evidence the contrary shall be made to appear; any law or usage to the contrary notwithstanding."

Sect. 98. "If any officer of stamp duties, or other person employed in the execution of this act, in relation to the said duties on horses let for hire, shall wilfully refuse or neglect to do or perform any matter or thing by this act required or directed to be done or performed by such officer or person, whereby any of his majesty's subjects shall sustain any damage, such officer or person shall be liable, in an action to be founded on this statute, to answer to the party aggrieved for all such damages, with full costs of suit."

Sect. 99. "It shall be lawful for any inspector of stamp duties, or any collector of the duties by this act granted in respect of horses let for hire, or for any other person authorized by the commissioners of stamps, on producing and showing (if required so to do) his appointment or authority in writing from time to time, to enter into any toll house or other place at which any toll is or shall be by law payable or any ticket shall be receivable under this act, and in such toll house or other place to remain so long as such inspector, collector, or other person so authorized shall think fit and requisite, for the purpose of examining and checking the stage carriages travelling upon any turnpike or other road, or for the purpose of receiving and examining the tickets relating to horses let for hire; and if any toll-gate keeper, toll collector, or other person shall refuse to permit any such inspector, collector, or other person authorized as aforesaid to enter into or to remain in any toll house or other such place as aforesaid, or shall obstruct or hinder or molest such inspector, collector, or other person authorized as aforesaid in entering into or remaining in such toll house or place for the purposes aforesaid, or if any toll-gate keeper, toll collector, or other person shall in any way

hinder, molest, or disturb, or use abusive or insulting language to any such inspector, collector, or other person authorized as aforesaid, either in the discharge of his duty or in the reasonable use of such toll house or other place as aforesaid, every person so offending shall forfeit 20*l*."

Sect. 100. "If any person shall receive any sum of money, or any other consideration or reward of any kind whatsoever, for aiding or assisting in or for conniving at the commission of any offence against this act, he shall forfeit 20*l*."

Sect. 101. "All duties granted or imposed by or incurred under this act may be sued for and recovered by all such ways and means and in such manner and form as are and is or at any time hereafter shall be provided by law for the recovery of any other duties granted or imposed by or incurred under any other act relating to stamp duties, as well as by the particular ways and means provided by this act; and in all actions, bills, plaints, informations, and proceedings to be commenced, prosecuted, entered, or filed in the name of his majesty or of any other person for the recovery of any such duties, or of any debts or penalties which may be incurred or become payable under this act, it shall be lawful for his majesty, or any other person legally entitled to sue or prosecute for the same, to have and recover such duties, debts, and penalties, with full costs of suit and all other reasonable charges and expenses."

Sect. 102. "All pecuniary penalties imposed by or which may be incurred under this act may be sued or prosecuted for in any of his majesty's courts of record at Westminster for any offence committed in England, Wales, or Berwick-upon-Tweed, and in his majesty's Court of Exchequer in Scotland, for any offence committed in that part of Great Britain called Scotland, by action of debt, bill, plaint, or information, wherein no essoign, protection, or privilege, nor more than one imparlance, shall be allowed: provided always, that it shall not be lawful for any person to sue or prosecute for any such penalty in any of the courts aforesaid without having first obtained the consent in writing of two or more of the commissioners of stamps for that purpose, unless the action, suit, or prosecution for such penalty shall be carried on by the solicitor of stamps in England or Scotland respectively; and it shall be lawful for the said commissioners, if they shall think fit, to order the proceedings to be stayed in any such action, suit, or prosecution on payment of part only of any penalty incurred, with or without costs, or on payment only of the costs incurred or any part thereof, or otherwise, as they shall judge proper and expedient."

Sect. 103. Provided always, "that it shall be lawful for any justice of the peace having jurisdiction where the offence shall be committed, to hear and determine any offence against this act which may subject the offender to any pecuniary penalty not exceeding 20*l*.; and it shall be lawful for any such justice and he is hereby required, upon information given or complaint made before him, to summon the party accused, and also the witnesses on either side, to be and appear before the said justice or before any other justice of the peace at a time and place to be appointed for that purpose; and either on the appearance of the party accused, or in default thereof, it shall be lawful for such justice, or any other justice present at the time and place appointed for such appearance, to proceed to examine into the matter of fact, and upon due proof made thereof by voluntary confession of the party or by oath of one or more witness or witnesses, to give judgment for the penalty, and to award and issue out his warrant for the levying of any penalty so adjudged, together with the costs and expenses of such proceedings, and also the costs and expenses of such warrant, and of levying the same on the goods of the offender, and to cause sale to be made of such goods in case they shall not be redeemed within five days, rendering to the party the overplus, if any; and where goods of such offender cannot be found

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Penalty on conniving at offences, 20*l*.

Duties recoverable as other stamp duties.

Duties and penalties recoverable with costs.

In what courts pecuniary penalties may be sued for.

Consent of the commissioners of stamps requisite to sue for penalties.

Penalties not exceeding 20*l*. recoverable before a justice of the peace (a).

Mode of proceeding.

(a) See the 3 & 4 Wil. IV. c. 48, *ante*, 735, as to the recovery and application of penalties relating to carrying outside passengers, &c.

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Appeal.

Proceedings not
to be quashed for
want of form, nor
removed.

By whom penal-
ties shall be reco-
vered before a
justice of the
peace.

sufficient to answer the penalty and all such costs and expenses it shall be lawful for such justice and he is hereby required to commit such offender to the common gaol or house of correction, there to remain for such term or period of time as is by this act fixed or provided as the term of imprisonment for the particular offence of which such offender shall have been convicted; and in any case where no such term of imprisonment is or shall be so fixed or provided as aforesaid, then such justice is hereby required to commit such offender to the common gaol or house of correction, there to remain for any time not less than three calendar months and not exceeding six calendar months if the full penalty imposed by this act for the offence of which such offender shall have been convicted shall amount to the sum of 20*l.*, and for any time not less than one calendar month and not exceeding three calendar months if such penalty shall not amount to 20*l.*, unless such penalty and all such costs and expenses shall be sooner paid and satisfied; and if the person convicted shall find himself aggrieved by the judgment of any such justice it shall be lawful for such person to appeal against the same to the justices of the peace at the general or quarter sessions of the peace for the county or place within which the offence shall be committed which shall be held next after the expiration of ten days from the day on which such conviction shall have been made, of which appeal notice in writing shall be given to the prosecutor or informer seven clear days previous to the first day of such sessions; and such justices at such sessions are hereby authorized to examine witnesses upon oath, and finally to hear and determine such appeal; and in case the judgment of any such justice shall be affirmed, it shall be lawful for the justices at such sessions to award and order the person appealing to pay such costs occasioned by such appeal as to them shall seem meet: provided always, that no person convicted before any such justice shall be entitled or permitted to appeal against such conviction in manner aforesaid unless, within five days next after such conviction made, he shall enter into a recognizance, with two sufficient sureties, before such justice, to enter and prosecute such appeal, and to pay the amount of the penalty and costs in which he shall have been convicted, and also to pay such further costs as shall be awarded in case such conviction shall be affirmed on the hearing of such appeal: provided also, that no such proceedings so to be had or taken shall be quashed or vacated for want of form, or shall be removed by *certiorari*, suspension, advocacy, or reduction, or by any other writ or process, into any superior or other court or jurisdiction; any law or usage to the contrary notwithstanding."

Sect. 104. Provided always, "that it shall not be lawful for any person other than the solicitor of stamps, or some other officer of his majesty's stamp duties in England or Scotland respectively, to inform or prosecute before any justice of the peace for the recovery of any penalty imposed by or incurred under this act, except in the cases next hereinafter mentioned; (that is to say,) any penalty imposed or incurred with relation to horses let for hire or the duties thereon, and any penalty incurred by the driver of any stage carriage by reason of the carrying of a greater number of passengers in, upon, or about such stage carriage than is or shall be allowed by this act or by the licence relating to such stage carriage, and any penalty imposed or incurred by reason of the carrying of any outside passenger, or any luggage on the roof or top of any stage carriage, contrary in any manner to the directions of this act, or by reason of any person sitting or being carried on any luggage, or upon that part of the roof of any stage carriage allotted for luggage, or by reason of more than one person besides the driver sitting or being carried upon the box of any stage carriage, or of refusing to permit or allow any stage carriage or luggage to be measured, or the passengers to be counted, or refusing or neglecting to stop such carriage at any toll gate for that purpose, or by reason of any other offence which may subject to any penalty the driver or conductor or guard of any stage carriage, or any person employed to hold the horses, or having the care of or being employed in or about any stage carriage, or any toll-gate keeper, toll collector, constable, or peace officer, or by reason of any person summoned as a witness neglecting

or refusing to attend or give evidence; and if any person, other than such solicitor or officer as aforesaid, shall commence or prosecute any information or complaint before any justice of the peace for the recovery of any penalty imposed by or incurred under this act, except in the several cases hereinbefore mentioned and allowed in that behalf, such information or complaint and every proceeding thereupon had shall be null and void to all intents and purposes: provided always, that nothing herein contained shall extend to permit or allow any person other than the solicitor, or some other officer of stamp duties, to inform or prosecute for the recovery of any penalty imposed by or incurred under this act by reason of the driver of any carriage or other person plying for passengers to be conveyed for hire by any carriage not having the proper numbered plates fixed thereon, unless the offender shall be apprehended and taken before a justice of the peace, as authorized by this act."

Stage Coaches and Post Horses.

2 & 3 Wil. 4, c. 120.

Sect. 105. "It shall be lawful for any justice of the peace, before whom any person shall be convicted of any offence against any of the provisions of this act, to mitigate as he shall see fit any penalty by this act imposed in cases where such justice shall see cause so to do, provided that all reasonable costs and charges expended or incurred in prosecuting for such offence shall be always allowed over and above the sum to which such penalty shall be mitigated, and so as such mitigation do not reduce the penalty to less than one fourth of the penalty incurred, exclusive of such costs and charges; any thing herein contained to the contrary notwithstanding."

Justices may mitigate penalties.

Sect. 106. "All pecuniary penalties imposed by or incurred under this act, which shall be sued or prosecuted for and recovered by or in the name of any person other than his majesty's attorney general in England, or his majesty's advocate for Scotland, or the solicitor of stamps, or any other officer of stamp duties in England or Scotland respectively, shall respectively be distributed and divided in manner following; (that is to say,) one moiety thereof to his majesty, and the other moiety thereof, with full costs of suit, to the person who shall inform and sue or prosecute for the same within fourteen days after the offence shall have been committed; and all such pecuniary penalties as aforesaid which shall be sued or prosecuted for and recovered by or in the name of his majesty's said attorney general in England or advocate in Scotland, or by or in the name of such solicitor or officer as aforesaid, or for the recovery of which any information or complaint shall be made, or any action or suit shall be commenced after the expiration of the time aforesaid, shall go and be applied to the use of his majesty: provided always, that it shall be lawful for the commissioners of stamps, at their discretion, to give all or any part of such penalties or shares of penalties belonging to his majesty as rewards to any person or persons who shall have detected such offences or given information which may have led to the discovery thereof, or to the conviction of the offenders."

Application of penalties.

Sect. 107. "Every justice of the peace before whom any person shall be convicted of any offence against this act shall take and receive the penalty or share of the penalty belonging to his majesty levied or paid under or by virtue of such conviction, and every such justice shall pay or cause to be paid all such sums of money which he shall so take or receive as aforesaid, at the next general or quarter sessions of the peace after he shall have so taken or received the same, into the hands of the clerk of the peace or other such officer of the county or place within which such conviction shall have been made, who shall, within ten days after his receipt thereof, and without fee or reward, pay or remit the same for the use of his majesty to the solicitor of stamps, at the stamp office in Westminster or Edinburgh, as the conviction shall happen to be in England or Scotland respectively, any thing in any other act contained to the contrary notwithstanding; and every such justice shall, within one week after every such payment made by him to any clerk of the peace or other such officer, transmit to such solicitor as aforesaid a schedule containing the name of the person so convicted, the nature of the offence, and the amount of the penalty of and in which he shall have been convicted, the date of such conviction, and the sum of

Justices shall receive the crown's share of penalties, and pay the same to the clerk of the peace, to be remitted to the Stamp Office.

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2 & 3 Wil. 4, c. 120.

Penalty on the justice or clerk of the peace for neglecting to pay over the penalties received, 50*l*.

Justices empowered to award costs to defendants where informations or complaints are withdrawn or dismissed in certain cases.

Service of the justice's summonses and other notices.

Penalty on constables refusing to serve a summons, warrant, &c. 10*l*.

Penalty on witnesses neglecting to attend, 10*l*.

money which shall have been paid under or by virtue thereof, together with the name of the clerk of the peace or other such officer to whom he shall have paid the same; and if any such justice shall neglect or omit to pay or cause to be paid to such clerk of the peace or other officer as aforesaid, at the time and in the manner hereinbefore directed, any such penalty or share of penalty received by such justice as aforesaid, or upon payment thereof shall neglect or omit to transmit to the proper solicitor of stamps such schedule as aforesaid, or if any such clerk of the peace or other officer shall neglect or omit to pay or remit any such penalty or share of penalty to such solicitor of stamps as aforesaid, within the time and in manner hereinbefore limited and directed in that behalf, every person so offending shall forfeit 50*l*."

Sect. 108. "If any proprietor of any stage carriage, or the driver or guard of any stage carriage, shall be summoned before any justice of the peace to answer any information or complaint exhibited or made against him by any person other than an officer of stamp duties, touching or concerning any offence committed or alleged to have been committed by such proprietor, driver, or guard respectively against the provisions of this act, and such information or complaint shall afterwards be withdrawn or quashed or dismissed, or if the defendant shall be acquitted of the offence charged against him, it shall be lawful for such justice to order and award that the informer or person exhibiting or making such information or complaint shall pay to the defendant such costs of making or preparing for his defence, and also such compensation for his loss of time and for the time of his witnesses (if any) in attending such justice touching or concerning such information or complaint, as to such justice shall seem reasonable; and in default of immediate payment of the sum so awarded it shall be lawful for such justice to cause the same to be levied by distress and sale of the goods and chattels of the person ordered to pay the same, together with the costs of such distress and sale; and if goods and chattels of such person sufficient to answer the sum so awarded, with such costs as aforesaid, cannot be found, it shall be lawful for such justice to commit such person to the common gaol or house of correction for any time not exceeding one calendar month, unless the sum so awarded, together with all costs and expenses, shall be sooner paid and satisfied."

Sect. 109. "Any summons issued by any justice of the peace requiring any defendant or any witness or other person to appear before such justice, or any other justice, with reference to any information, complaint, or other proceeding for the recovery of any duty or penalty under this act, shall be deemed to be well and sufficiently served in case either the summons or a copy thereof be served personally upon any such person as aforesaid, or be left at his usual or last place of residence, or, in case such person be a proprietor, driver, conductor, or guard of any stage carriage, be left with the book-keeper or person for the time being acting as book-keeper for such stage carriage in any town or place from, into, or through which such carriage shall go or be driven nearest to the place where any such offence shall be committed; and any notice by this act required to be given to the proprietor of any stage carriage or to any other person shall be deemed to be well and sufficiently served in case either such notice, or a copy thereof, be served personally upon such proprietor or other person, or be left at his usual or last place of residence, or (in the case of such proprietor) be left with any book-keeper or person acting as book-keeper at any office belonging to such proprietor."

Sect. 110. "If any constable or other peace officer shall refuse or neglect to serve or execute any summons, warrant, or order granted, issued, or made by any justice of the peace, or by any two of the commissioners of stamps, pursuant to any of the provisions of this act, every such constable or peace officer so offending shall forfeit 10*l*."

Sect. 111. "If any person who shall be summoned as a witness to give evidence before any justice of the peace or before any justice at sessions touching the matters alleged in or relating to any information, complaint,

appeal, or other proceeding depending before such justice or justices for the recovery of any duty or penalty incurred under this act, shall neglect or refuse to appear before such justice or justices at the time and place to be for that purpose appointed, without a reasonable excuse for such neglect or refusal, to be allowed by such justice or justices, or if any person so summoned shall appear, but shall refuse to be examined and give evidence before such justice or justices touching the matters aforesaid, every such person so offending shall forfeit 10*l*."

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2 & 3 Wil. 4, c. 120.

Sect. 112. "Upon the trial or hearing of any information or complaint exhibited or made under any of the provisions of this act any officer of stamp duties, or other person employed by the commissioners of stamps, shall be deemed and is hereby declared to be a competent witness, notwithstanding that such officer or person may be the informant or complainant, or may be entitled to or expect any part of any pecuniary penalty or any remuneration or reward, on the conviction of any offender upon any such information or complaint."

Officers of stamp duties not disqualified from being witnesses.

Sect. 113. "Every complaint, information, summons, conviction, warrant of distress, or commitment, or other such proceeding which shall be had or taken for the recovery of any duty or penalty under the provisions of this act, may be drawn or made out according to the several forms contained in schedule (B.) hereunto annexed, or to the effect thereof, *mutatis mutandis*, as the case shall require; and every such complaint, information, summons, conviction, warrant, or other such proceeding which shall be so drawn or made out shall be good and effectual, to all intents and purposes whatsoever, without stating the case or the facts or evidence in any more particular manner than is required in and by such forms respectively."

Proceedings to be drawn up according to the forms in schedule (B.)

Sect. 114. "All the carriages, horses, and harness, and other articles and things, kept, used, or employed by any person, whether licensed under the authority of this act or not, for the purpose of conveying passengers for hire, or for the purpose of being let for hire as aforesaid, shall be subject and liable to and chargeable with all the duties in arrear and owing, or which shall become due and payable from time to time, from or by such person for or in respect of any stage carriage kept, used, or employed by such person, or for or in respect of any horse let for hire by any such person, and to and with all penalties which may be imposed upon or incurred by such person under this act, and also to and with the costs and expenses of all proceedings which shall or may be had or taken for the recovery of such duties and penalties respectively; and all such carriages, horses, harness, and other articles and things shall, for the purpose of satisfying such duties, penalties, costs, and expenses, or any part thereof respectively, be deemed to be the goods and chattels of such person, and shall be distrained or otherwise seized or taken accordingly, in or into whose custody or possession soever the same shall or may be or come, and by or under what right or title soever the same shall or may be held or claimed; and in case any person in or into whose custody or possession any such carriages, horses, harness, or other articles shall be or come, by or under any means or title whatsoever, shall convert the same to his own use, or shall sell or dispose thereof for the use or benefit of any other person, after notice given by the commissioners of stamps or their solicitor, or by any person authorized to collect or receive the duties by this act granted, or any of them, that such carriages, horses, harness, and other articles are subject and liable to or chargeable with any of the duties, penalties, costs, and expenses aforesaid, every person so converting or selling or disposing of such carriages, horses, harness, or other articles shall be accountable to his majesty, to the extent of the value of such carriages, horses, harness, or other articles, for the amount of the duties, penalties, costs, and expenses to or with which such carriages, horses, harness, and other articles shall be subject, liable, or chargeable, and the same may be sued for and recovered under and by virtue of this act as a debt due to his majesty accordingly."

Carriages, horses, harness, &c. chargeable with the duties and penalties incurred.

Persons selling or disposing of such carriages, &c. after notice, to be liable to extent of the value thereof.

Sect. 115. "In all cases where any goods or chattels distrained or other-

In what manner

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

goods distrained
under this act
shall be sold.Limitations of
actions.

Venue.

Notice of action.

General issue.

Tender of amends.

Construction of
the terms used in
this act.

"His Majesty."

"Officer of Stamp
Duties."

"Proprietor."

wise seized or taken under any of the provisions of this act are directed to be sold, the same shall be sold by public auction, and notice of the time and place of such sale shall be given to the owners of such goods or chattels, or left at his last known place of abode, three days at least prior to such sale : provided always, that if the owner of any such goods or chattels shall give his consent in writing to the sale thereof at an earlier period than is by this act or shall be by any such notice appointed for such sale, or in any other manner than is by this act directed, it shall be lawful to sell such goods or chattels according to such consent ; provided also, that if the owner of such goods or chattels shall at any time before the sale thereof pay or tender to the person who by any warrant or other process shall be directed or authorized to cause such goods or chattels to be sold the sum which he shall by such warrant or process be directed to levy or raise by the sale of such goods or chattels, together with all reasonable costs and expenses incurred, no sale of such goods or chattels shall be made."

Sect. 116. "All actions and prosecutions which shall be brought or commenced against any person for any thing done in pursuance or under the authority of this act shall be commenced and prosecuted within three calendar months next after the fact committed, and not afterwards, and shall be brought and tried in the county or place where the cause of action shall arise, and not elsewhere ; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action ; and the defendant in such action may plead the general issue, and give this act and any other matter or thing in evidence at any trial to be had thereupon ; and if the cause of action shall appear to arise from any matter or thing done in pursuance and by the authority of this act, or if any such action shall be brought after the expiration of such three calendar months, or shall be brought in any other county or place than as aforesaid, or if notice of such action shall not have been given in manner aforesaid, or if tender of sufficient amends shall have been made before such action commenced, or if a sufficient sum of money shall have been paid into court after such action commenced by or on behalf of the defendant, the jury shall find a verdict for the defendant ; and if a verdict shall pass for the defendant, or if the plaintiff shall become nonsuit, or shall discontinue any such action, or if on demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs of suit as between attorney and client, and shall have the like remedy for the same as any defendant may have for costs of suit in other cases at law ; and although a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the judge before whom the trial shall be had shall at the time of such trial certify in writing his approbation of the action and of the verdict obtained thereupon."

Sect. 117. "And in order to avoid the frequent use of divers terms and expressions in this act, and to prevent any misconstruction of the terms and expressions used therein, be it enacted, that wherever in this act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction ; and that wherever the terms and expressions following occur in this act they shall be construed respectively in the manner hereinafter directed ; (that is to say,) that the term and expression 'his majesty' shall be construed to mean and include his majesty, his heirs, and successors ; and that the term 'officer of stamp duties' shall be construed to mean any officer deputed or appointed by the commissioners of stamps, whatever may be his particular office or employment ; that the term 'proprietor,' used with reference to any stage carriage, shall be construed to mean and include any and every person who shall keep, use, or employ such stage carriage, or who shall be concerned in the keeping, using, or employ-

ing thereof; that the term 'licensed postmaster' shall be construed to mean and include any and every person, male or female, licensed to let horses for hire under the authority of this act; that the term 'horse' or 'horses' shall respectively be construed to mean and include any mare or gelding, or mares or geldings, as well as any horse or horses; that the term 'toll gate' shall be construed to mean any gate or bar at which any toll is payable or any ticket is receivable for any horse or carriage; that the term 'toll gate keeper' shall be construed to mean and include the keeper of any such gate or bar as aforesaid, or the collector of tolls thereat, or any person acting as such keeper or collector respectively; that the term 'driver' used with reference to any stage carriage shall be construed to mean the coachman, driver, or director thereof; and that the term 'luggage' shall be construed to mean any trunk, box, bale, parcel, package, corn, or other article, whether such trunk, box, bale, parcel, package, corn, or other article shall or shall not belong to any passenger conveyed by any such stage carriage."

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2 & 3 Wil. 4, c. 120.

"Licensed Postmaster."

"Horse," or "Horses."

"Toll-gate."

"Toll-gate Keeper."

"Driver."

"Luggage."

Sect. 118. "All the powers, provisions, regulations, forfeitures, pains and penalties contained in or imposed by any other act or acts in force with relation to any of the duties under the management of the commissioners of stamps, so far as the same are or may be applicable in cases not by this act expressly provided for, and so far as the same shall not be superseded by and as the same shall be consistent with the express provisions of this act, shall be of full force and effect with respect to the duties by this act granted and to the matters and things charged or chargeable therewith, and shall be applied and put in execution for securing and collecting the said last-mentioned duties, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually, to all intents and purposes, as if such powers, provisions, regulations, forfeitures, pains and penalties had been repeated and specially enacted in this act with reference to the duties by this act granted and made payable."

Powers and provisions of other stamp acts in force to extend to this act.

Sect. 119. "Where the several clauses and provisions of this act are not expressly directed to take effect from and after the passing thereof, such clauses and provisions, so far as they in any manner relate to stage carriages, or to the duties hereby granted in respect thereof, or of licences to keep the same, or in respect of passengers conveyed for hire, shall commence and take effect on the 11th day of October, in this present year 1832; and such clauses and provisions, so far as they in any manner relate to the duties hereby granted in respect of horses let for hire or of licences to let the same, shall commence and take effect on the 1st day of February in the year 1833."

Commencement of this act.

Sect. 120. "This act may be amended, altered, or repealed by any act or acts to be passed in this present session of parliament."

Act may be altered this session.

By 6 & 7 Wil. IV. c. 45, intituled "*An Act to transfer the Collection and Management of the Duties in Great Britain on Horses let for Hire, and on Licences relating to the same, from the Commissioners of Stamps and Taxes to the Commissioners of Excise*," [28th July, 1836,] reciting, "Whereas by an act passed in the second and third years of the reign of his present majesty, intituled '*An Act to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages and on Horses let for Hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto*,' certain duties in Great Britain were amongst others, granted for and in respect of every horse let for hire, as in the said act is mentioned, and for every licence relating to the same, which duties were thereby placed under the management of the commissioners of stamps, and were denominated and deemed to be stamp duties: and whereas by an act passed in the fourth and fifth years of his said majesty's reign, intituled '*An Act to amend the Laws relating to the Land and Assessed Taxes, and to consolidate the Boards of Stamps and Taxes*,' it was amongst other things enacted, that the several persons appointed as therein mentioned commissioners of stamps for the United Kingdom of Great Britain and Ireland and commissioners for the affairs of taxes in

6 & 7 Wil. 4, c. 45.

2 & 3 Wil. 4, c. 120.

4 & 5 Wil. 4, c. 60.

*Stage Coaches
and Post
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6 & 7 Wil. 4, c. 45.

From 31st January 1837, the care and management of the duties on horses let for hire, and on licences relating to the same, transferred from the commissioners of stamps and taxes to the commissioners of excise.

Powers, &c., of 2 & 3 Wil. 4, c. 120, to be executed by the commissioners of excise, and powers, &c. of excise acts to be of full force for collecting the duties transferred.

Proviso for collecting duties accrued before 31st January 1837.

Great Britain respectively should be and become one consolidated board of commissioners, and be called 'The Commissioners of Stamps and Taxes,' and that from thenceforth all the several duties, matters, and things which then were collected by or under the care and management of the said commissioners of stamps and of the said commissioners for the affairs of taxes respectively should be collected by and should be under the care and management of the commissioners of stamps and taxes in the same manner as such duties, matters, and things respectively had theretofore been collected by or had been under the care and management of the said commissioners of stamps and of the said commissioners for the affairs of taxes respectively: and whereas it is expedient to transfer the collection and management of the said duties on horses let for hire, and on licences relating to the same, from the said commissioners of stamps and taxes to the commissioners of excise; be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the 31st day of January 1837 the care and management of the rates and duties granted and made payable by the said first-recited act in and throughout Great Britain for and in respect of every horse let for hire, and every licence relating to the same, and mentioned and described in the said schedule (A.) to the said act annexed, shall be and the same are hereby transferred from the commissioners of stamps and taxes to the commissioners of excise in Great Britain for the time being; and the said rates and duties shall thenceforth be denominated and deemed to be duties of excise, and shall be raised, levied, collected, and paid and accounted for by and under the authority, care, and management of the said commissioners of excise."

Sect. 2. "All the powers, provisions, regulations, and directions contained in the said first-recited act shall be executed and enforced by the commissioners of excise and their officers respectively, for securing and collecting the said duties, as fully and effectually as if such powers, provisions, regulations, and directions had been originally given to the said commissioners of excise and their officers respectively, and as if the same were repeated and re-enacted in this act, and that all the powers, provisions, regulations, and directions, forfeitures, pains, and penalties contained in and imposed by the said act, and all the provisions, powers, regulations, and directions, forfeitures, pains, and penalties contained in and imposed by any act or acts in force immediately before the passing of this act, in relation to any of the duties of excise, so far as such last-mentioned provisions, powers, regulations, directions, forfeitures, pains, and penalties shall be applicable to the said duties on horses let for hire, or on licences relating to the same, and so far as the same shall not be inconsistent with the special powers, provisions, regulations, and directions, forfeitures, pains, and penalties contained in the said first-recited act, shall be of full force and effect, and shall be applied and put in execution for securing, collecting, recovering, and paying the said last-mentioned duties, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such powers, provisions, regulations, and directions, forfeitures, pains, and penalties were repeated and specially enacted in this act; and wherever in the said first-recited act the head office for stamps, or the solicitor of stamps in England or Scotland respectively, or any officer of stamp duties, is mentioned or designated, the same shall, so far as relates to the duties on horses let for hire and on licences relating to the same, be deemed and taken to mean the chief office of excise in London, the solicitor of excise in England or in Scotland, as the case may be, and any officer of excise respectively; and the account by the said act directed to be kept and to be intituled 'Stamp Office Weekly Account' shall be intituled 'Excise Office Weekly Account.'"

Sect. 3. Provided always, "that nothing in this act contained shall extend or be deemed or construed to extend to prevent the commissioners of stamps and taxes, or any collector or other person appointed by them, or any farmer

of the said duties on horses let for hire under any demise or contract which shall be existing on the said 31st day of January 1837, or any assignee of such farmer, from doing or causing to be done, at any time after the said 31st day of January, all or any such acts, matters, and things whatsoever as shall or may be necessary or expedient for raising, levying, collecting, recovering, and paying all or any of the duties on horses let for hire, and on licences to let such horses, and all penalties and forfeitures relating thereto, which shall accrue due or be incurred respectively on or before the said 31st day of January, and all or any sum or sums of money due and payable to his majesty, his heirs or successors, in respect of any of such duties or penalties; but that all such duties, sum and sums of money, and all penalties and forfeitures whatsoever in relation thereto, shall and may be raised, levied, collected, sued for, recovered, and paid by the same ways and means, and in such and the same manner in all respects, as if this act had not been passed."

Sect. 4. "This act may be amended, altered, or repealed by any act or acts to be passed in this present session of parliament."

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2 & 3 Wil. 4, c. 120.

Act may be alter-
ed this session.

SCHEDULES to which the 2 & 3 WIL. IV. c. 120, refers.

SCHEDULE (A.)

The DUTIES granted by this Act on STAGE CARRIAGES and on LICENCES to keep the same; (that is to say,)

	DUTY.
	£. s. d.
For and in respect of every original licence to be taken out yearly by the person who shall keep, use, or employ any stage carriage in Great Britain, (that is to say,) for every such stage carriage -	5 0 0
And for and in respect of every supplementary licence for the same carriage, for which any such original licence shall have been granted, which shall be taken out in any of the several cases provided for by this act during the period for which such original licence was granted -	0 1 0
And for and in respect of every mile which any such stage carriage shall be licensed to travel the several sums following respectively; (that is to say,)	
If such stage carriage shall be licensed to carry —	Duty per Mile.
Not more than four passengers -	0 0 1
More than four and not more than six passengers -	0 0 1½
More than six and not more than nine passengers -	0 0 2
More than nine and not more than twelve passengers -	0 0 2½
More than twelve and not more than fifteen passengers -	0 0 3
More than fifteen and not more than eighteen passengers -	0 0 3½
More than eighteen and not more than twenty-one passengers -	0 0 4
And if such stage carriage shall be licensed to carry more than twenty-one passengers, then for every three additional passengers exceeding twenty-one which such stage carriage shall be licensed to carry, the additional duty of -	0 0 0½
And where such excess above twenty-one shall not be exactly three, or a multiple of three, then such additional duty of one-halfpenny shall be payable also for any number of such excess being less than three, or progressively less than any multiple of three, which such stage carriage shall be licensed to carry.	
Provided always, that the number of passengers for carrying of which any stage carriage shall be licensed shall be reckoned exclusive of the coachman or driver, and also exclusive of the conductor or guard if there shall be a conductor or guard.	

*Stage Coaches
and Post
Horses.*

2 & 3 Wil. 4, c. 120.

The DUTIES on PASSENGERS conveyed for Hire by CARRIAGES travelling upon RAILWAYS; (that is to say,)

The proprietor or company of proprietors of every railway in Great Britain along which any passengers shall be conveyed for hire in or upon carriages drawn or impelled by the power of steam, or otherwise, shall pay for and in respect of all such passengers at and after the rate of one halfpenny per mile for every four passengers so conveyed.

The DUTIES on HORSES let for Hire, and on LICENCES to let the same; (that is to say,)

	DUTY.
	£. s. d.
For and in respect of every licence to be taken out yearly by every person who shall let any horse for hire in Great Britain -	0 7 6
And for and in respect of every horse let for hire by the mile at the usual rate charged for horses travelling post (a) at the place at which such horse shall be let for hire; (that is to say), for every mile such horse shall be hired, or used to travel or go -	0 0 1½
And for and in respect of every horse let for hire to go no greater distance than eight miles from the place of letting -	One fifth part of the sum charged for such letting, or in lieu thereof, at the option of the person letting the horse, 0 1 9
And for and in respect of every horse let for hire to go no greater distance than eight miles from the place of letting, where such horse shall not bring back any person, and shall not deviate from the usual line of road between the place of letting and the place to which such horse shall be hired to travel or go -	0 1 0
And for and in respect of every horse let for hire, or used for any period of time less than twenty-eight successive days, or in any other manner than as aforesaid -	One fifth part of the sum charged or received, or agreed to be received, on every such letting for hire or using.
And also for and in respect of every horse let for hire for twenty-eight successive days, or for any longer period of time, where any such horse shall be returned in a less period of time than twenty-eight successive days, and shall not be exchanged for another horse in continuation of the same hiring -	
Or in lieu of such last-mentioned one-fifth part of such sum (at the option of the person letting the horse). the following duties for every day such horse shall be let for hire or used, or shall (by virtue of any such letting) have been under the direction of the person to whom the same shall be hired; (that is to say),	
For every day not exceeding three days -	0 2 6
And for every day exceeding three days, and not exceeding thirteen days -	0 1 9
And for every day exceeding thirteen days, and less than twenty-eight days -	0 1 3

SCHEDULE (B.)

2 & 3 Wil. 4, c. 120.

The FORMS of PROCEEDINGS for the Recovery of DUTIES and PENALTIES
under this Act.

To A. B., of, &c.

Whereas a licence [or, licences] hath [or, have] been granted, under the provisions of the statute in that behalf made, to C. D., of, &c., to keep, use, and employ a stage carriage [or, stage carriages], with plates numbered respectively [here specify the number or numbers of the plates appertaining to the licence or licences granted to C. D.]: and whereas the said C. D. hath made default in payment of the sum of , for the duty which hath become due and payable to his majesty in respect of such licence [or, licences] between the day of , and the day of , contrary to the statute in that case made and provided; therefore we , and , Esquires, two of the commissioners of stamps, do hereby authorize and direct you to distrain the said C. D., by his goods and chattels, and also to seize and take all or any of the carriages, horses, harness, and other things made subject and liable to the said duty by the statute in that behalf, and to levy thereon the said sum of , being the amount of such duty so due and payable as aforesaid; and if within the space of five days next after taking such distress the said sum of , together with the reasonable costs and charges of taking and keeping such distress, shall not be paid, then we do hereby order and direct that you shall sell and dispose of the said goods and chattels, carriages, horses, harness, and other things which shall be so distrained, seized, and taken, and that you shall levy and raise thereout the said sum of , and all reasonable costs and charges of taking, keeping, and selling such distress, rendering the overplus (if any) to the owner of the said goods and chattels; and you are to certify to the commissioners of stamps what you shall have done by virtue of this our warrant. Given under our hands and seals this day of

(1.) Form of a
warrant of distress
for the recovery of
stage carriage
duties.

County [or, as the case may be,] of } Be it remembered, that on this day of , in the year of our Lord , at , in the }
to wit. } of , A. B., an officer of stamp duties, [or, a collector or farmer of the duties on horses let for hire, as the case may be,] complaineth to me, C. D., Esq., one of his majesty's justices of the peace for the said , that E. O., of, &c., being liable, under the provisions of the statute in that behalf made, to account for and pay certain duty granted to his majesty by the said statute for and in respect of divers horses let for hire by the said E. O., in the said of , hath neglected to account for and pay to the proper collector or officer appointed to receive such duty, according to the directions of the said statute, the sum of , due and owing from the said E. O. to his said majesty [or, to the said A. B., or, to G. H., his majesty's farmer of the said duties, if the case be so,] for such duty as aforesaid; and thereupon the said A. B. prayeth of me, the said justice, that the said E. O. may be summoned to appear and show cause, if any he have, why, upon due proof being made of the sum due and owing from him for such duty as aforesaid, a warrant of distress should not be granted for recovery thereof, pursuant to the directions of the said statute.

(2.) Form of complaint whereon to
found a warrant
of distress for re-
covery of duties
on horses let for
hire.

Taken and received by me the day }
and year first above written. }

To E. O., of, &c.

County [or, as the case may be,] of } Whereas complaint hath been made unto me, C. D., Esq., one of his majesty's justices of the peace for the , of , that you, being liable, under the provisions of the statute in that behalf made, to account for and pay certain duty granted to his majesty by the said statute for and in respect of divers horses let

(3.) Form of a
summons on the
foregoing com-
plaint.

Stage Coaches
and Post
Horses.

2 & 3 Wil. 4, c. 120.

for hire by you in the said , have neglected to account for and pay to the proper collector or officer appointed to receive such duty, according to the directions of the said statute, the sum of , due and owing from you to his said majesty [or, to A. B., his majesty's farmer of the said duties] for such duty as aforesaid: these are therefore to summon you to be and appear at , in the said , on the day of , at the hour of , in the noon of the same day, before me the said justice, or before such other of his majesty's justices of the peace for the said , as shall be then present, in order that you may show cause, if any you have, why, on due proof being made of the sum of money due and owing from you for such duty as aforesaid, a warrant of distress should not be granted for the recovery thereof, pursuant to the directions of the said statute; and if you fail to appear accordingly such proceedings will be taken as if you had appeared and had not shown any sufficient cause why such warrant should not be granted.

Given under my hand and seal, this day of .

(4.) Form of a
warrant of distress
founded on the
foregoing com-
plaint.

To the Constable of , [or, to C. D., of, &c., as the case may be.]

County [or, as the } Whereas complaint hath been made that E. O., of, &c.,
case may be,] of } being liable, under the provisions of the sta-
to wit. } tute in that behalf made, to account for and pay certain
duty granted to his majesty by the said statute for and in respect of divers horses
let for hire by the said E. O., in the said of , hath neglected to ac-
count for and pay to the proper collector or officer appointed to receive such duty,
according to the directions of the said statute, the sum of , due and owing
from the said E. O., to his said majesty [or, to A. B., his majesty's farmer of the
said duties] for such duty as aforesaid: and whereas the said E. O. hath been
duly summoned, and due proof hath been made on oath before me that the sum
of is due and owing from the said E. O. for such duty as aforesaid, and
that he hath neglected to pay the same: therefore I command you to distrain
the said E. O. by his goods and chattels, and also to seize and take all or any
of the carriages, horses, harness, and other things made subject and liable to the
said duty by the statute in that behalf, and to levy thereon the said last-mentioned
sum, being the amount of such duty due as aforesaid, and also the further sum
of , for the costs, charges, and expenses of proceeding for and obtaining
this warrant, and of the proceedings incident and relating thereto, making toge-
ther the sum of , and if within the space of five days next after the taking
of such distress the said sum of , together with the reasonable costs and
charges of taking and keeping such distress, shall not be paid, then I do hereby
order and direct that you shall sell and dispose of the said goods and chattels
which shall be so distrained, seized, and taken, and that you shall levy and raise
thereout the said sum of , and all reasonable costs and charges of taking,
keeping, and selling such distress, rendering the overplus (if any) to the owner
of the said goods and chattels; and you are to certify to me what you shall have
done by virtue of this my warrant.

Given under my hand and seal this day of .

(Signed)

One of his majesty's justices of the peace for
the said of .

(5). Form of a
warrant of com-
mitment for want
of sufficient dis-
tress, founded on
the foregoing com-
plaint.

To the Constable of , in the of , and also to the keeper of
the common gaol [or, house of correction] at , in the said .

County [or, as the } Whereas complaint was made that E. O., of, &c.,
case may be,] of } being liable, under the provisions of the statute in that
to wit. } behalf made, to account for and pay certain duty
granted to his majesty by the said statute for and in respect of divers horses let
for hire by the said E. O., in the said of , had refused and neglected
to account for and pay to the proper collector or officer appointed to receive such
duty, according to the directions of the said statute, the sum of , due and
owing from the said E. O., to his said majesty, [or, to A. B., his majesty's
farmer of the said duties] for such duty as aforesaid: and whereas the said

E. O. was duly summoned, and due proof was made on oath that the sum of Stage Coaches and Post Horses, was due and owing from the said E. O., for such duty as aforesaid, and that he had neglected to pay the same : and whereas a warrant has been issued, directed to C. D., of , commanding him, by distress and sale of the goods and chattels made subject and liable to the said duty by the statute in that behalf, to levy the said last-mentioned sum, being the amount of such duty as aforesaid due and owing from the said E. O., and also the further sum of , for the costs, charges, and expenses of proceeding for and obtaining the said warrant, and of the proceedings incident and relating thereto, making together the sum of , and it now appearing to me, by the oath of the said C. D., that no sufficient distress can be found whereon to levy the said duty, costs, and charges, [or, in case any insufficient distress shall have been taken : and whereas the said C. D. hath certified to me that he hath, under the said warrant, levied and raised the sum of only, and it now appearing to me, by the oath of the said C. D., that no sufficient distress can be found whereon to levy the residue of the said duty, costs, and charges] : therefore I command you, the said constable of , to apprehend and take the said E. O. and safely to convey him to the common gaol [or, house of correction] of the said at , in the said , and there to deliver him to the keeper thereof, together with this warrant : and I do hereby command you, the said keeper, to receive into your custody in the said gaol [or, house of correction] him the said E. O., and him therein safely to keep until the said sum of , or until the sum of , the residue of the said duty, costs and charges remaining after deducting the said sum of , so levied and raised as aforesaid, shall be fully paid and satisfied. Given under my hand and seal, this day of .

2 & 3 Wil. 4, c. 120.

(Signed)

One of his majesty's justices of the peace for the said of -

County [or, as the case may be,] of } Be it remembered, that on the day of , in the year of our Lord , at in the of A. B. of, &c. [or, A. B. an officer of stamp duties, or a collector or farmer of the duty on horses let for hire, as the case may be,] cometh before me, C. D., Esquire, one of his majesty's justices of the peace for the said and informeth me, the said justice, that E. O. of , heretofore, to wit, on the day of in the year of our Lord , at , in the said did [here state the offence], contrary to the form of the statute in such case made and provided, whereby the said E. O. hath forfeited for the said offence the sum of .

(6.) Form of an information for the recovery of a penalty under this act.

Taken and received by me the day } and year first above written. }

To E. O. of, &c.

County [or, as the case may be,] of } Whereas an information hath been exhibited before me, C. D., Esquire, one of his majesty's justices of the peace for the of charging that you, the above-named E. O., on the day of , at , did [here state the subject of the charge], whereby you have forfeited the sum of . These are therefore to require you personally to be and appear before me the said justice, or before such other of his majesty's justices of the peace for the said as shall be then present at , on the day of , at the hour of , in the noon of the same day, then and there to answer the same information and to make your defence thereto, and if you fail to appear accordingly such proceedings will be taken as if you had personally appeared, and had not made any defence to the said charge.

(7.) Form of a summons on the foregoing information.

Given under my hand and seal, this day of .

County, [or, as the case may be,] of } Be it remembered, that on the day of , at , C. D. of, &c. was duly convicted before me , one of his majesty's justices of the peace for , in pursuance of an act passed in the third year of the reign of his present majesty king

(8.) Form of a conviction on the foregoing information.

Stage Coaches and Post Horses.

*Stage Coaches
and Post
Horses.*

2 & 3 Will. 4, c. 120.

William the Fourth, intituled "An Act," &c. [title of this act], for that the said C.D., on the day of , did [here state the offence as the case may happen to be,] contrary to the form of the statute in that case made and provided; for which offence I do adjudge that the said C. D. hath forfeited the sum of , and [if the justice mitigate the penalty] which sum of I do hereby mitigate to the sum of over and above the sum of , for the costs and charges of E. F., the informer, in prosecuting this conviction.

Given under my hand and seal, the day of .

(9.) Form of a warrant of distress founded on the foregoing conviction.

To the Constable of , in the of .

County [or, as the case may be] of } Whereas E. O. of, &c. has been duly convicted of a certain offence, for that [here state the offence as in the conviction], to wit. } whereby he hath forfeited the sum of , [and in case of mitigation, which hath been mitigated to the sum of], over and above the reasonable costs and charges of the informer, allowed and assessed at the sum of ; therefore, I command you to levy the said sum of , and also the said sum of for the costs and charges aforesaid, making together the sum of , by distraining the goods and chattels of the said E. O., and by seizing and taking all or any of the carriages, horses, harness, and other things made subject and liable by the statute in that behalf to be seized and taken, to satisfy the penalty, costs, and charges aforesaid; and if within the space of five days next after such distress taken the said sum of , together with the reasonable costs and charges of taking and keeping such distress, shall not be paid, then I order and direct that you shall sell and dispose of the said goods and chattels which shall be so distrained, seized and taken as aforesaid, and shall levy and raise thereout the said sum of and all reasonable costs and charges of taking and keeping and selling such distress, rendering the overplus, if any, to the owner of the said goods and chattels; and you are to certify to me what you shall have done by virtue of this my warrant. Given under my hand and seal, the day of .

(Signed)

One of his majesty's justices of the peace for the said of .

(10.) Form of a warrant of commitment for want of a sufficient distress, founded on the foregoing conviction.

To the Constable of , and to the Keeper of the Common Gaol [or, House of Corection] at in the said .

County [or, as the case may be,] of } Whereas E. O. of, &c. has been duly convicted of a certain offence, for that [here state the offence, as in the conviction], to wit. } whereby he hath forfeited the sum of [and, in case of mitigation, which hath been mitigated to the sum of], over and above the reasonable costs and charges of the informer, allowed and assessed at the sum of , making together the sum of : and whereas it has been duly made to appear to me that no sufficient distress can be found whereon to levy the said sum of . Therefore I command you, the constable of , to apprehend and take the said E.O., and safely to convey him to the common gaol [or, house of correction] at in the of , and there to deliver him to the keeper thereof, together with this warrant: and I do hereby command you, the said keeper, to receive into your custody in the said gaol [or, house of correction] him the said E. O., and him therein safely to keep for the space of , unless the said sum of shall be sooner paid.

Given under my hand and seal, the day of .

(Signed)

One of his majesty's justices of peace for the said of .

Stamps.

[6 & 7 Wil. III. c. 12; 1 Anne, st. 2, c. 22; 8 Anne, c. 9; 10 Anne, c. 19; 5 Geo. III. c. 46; 12 Geo. III. c. 48; 23 Geo. III. c. 58; 26 Geo. III. c. 82; 31 Geo. III. c. 25; 25 Geo. III. c. 55; 36 Geo. III. c. 52; 42 Geo. III. c. 99; 43 Geo. III. c. 126; 44 Geo. III. c. 98; 52 Geo. III. c. 38; 53 Geo. III. c. 108; 55 Geo. III. c. 184; 1 & 2 Geo. IV. c. 55; 3 Geo. IV. c. 117; 5 Geo. IV. c. 41; 9 Geo. IV. c. 27; 9 Geo. IV. c. 49; 3 & 4 Wil. IV. c. 23, c. 97; 4 & 5 Wil. IV. c. 60; 5 & 6 Wil. IV. c. 20, c. 64 (a).]

AS evidence as regards stamps, see Vol. II. p. 74.

Several provisions relative to the penalties of the stamp-acts will be found under the different titles of instruments which are subject to stamp duties.

See titles "Almanacs," "Cards and Dice," "Medicines," "Newspapers," "Pawning," "Plate," "Promissory Notes," "Stage Coaches."

For the management of the stamp duties, the king may appoint commissioners, who shall substitute inferior officers, see 5 & 6 Wil. III. c. 21, s. 7; 9 & 10 Wil. c. 25, s. 48; 44 Geo. III. c. 98, s. 6. Officers for the stamp duties.

By the 4 & 5 Wil. IV. c. 60, s. 8, the commissioners of stamps and the commissioners for the affairs of taxes are consolidated into one board and are to be called "the commissioners of stamps and taxes."

Sect. 9. All the powers and authorities heretofore vested in the commissioners of stamps, and the commissioners for the affairs of taxes respectively, shall be had and exercised by the said commissioners.

Stat. 5 & 6 Wil. IV. c. 20, s. 6, consolidates the officers of receiver-general of the stamp duties and of receiver-general of the land and assessed taxes.

Sec. 2. consolidates the offices of accountant and comptroller-general of the stamp duties and of comptroller of accounts of land and assessed taxes. See further, *post*, title "Taxes."

With respect to duties imposed by the several acts before the 8 Anne, c. 9, the officers, before they shall act, shall take an oath for the due execution of their office, before one or more of the commissioners; and by the said act of 8 Anne, c. 9, s. 42, and subsequent acts, they may take the said oath, with respect to the duties imposed by those acts, before one or more of the commissioners, or a justice of the peace.

It being the intention of the legislature to repeal the present numerous and complicated enactments relative to the revenue of stamps, and to amend and consolidate the same, it would be idle and superfluous to present to the reader an elaborate treatise thereon. We will point out only some of the enactments which are more frequently called into action than others. Intention of legislature to amend stamp laws.

In the first place, however, it should be noticed, that in one of the acts relating to these duties, viz. 10 Anne, c. 19, there is a clause which brings all the rest within the jurisdiction of the justices of the peace, and almost the whole law relating to this title; and is as follows:— 10 Anne, c. 19. Power of justices in relation to stamp duties.

"That it shall and may be lawful to and for any two or more of the justices of the peace for the time being, residing near to the place where any pecuniary forfeitures, not exceeding 20*l.*, upon this or any of the acts of parliament, touching any of the duties under the management or care of the said commissioners for managing her majesty's duties on stamped vellum, parchment, and paper, shall be incurred, or any offence against any of the same acts shall be committed, in anywise relating to the same duties, or any of them, by which any sum of money only may be forfeited, to hear and deter-

Jurisdiction of justices where the penalty does not exceed 20*l.*

(a) See in general, as to stamps, *Stark. on Evid.* 3rd vol. tit. *Agreement and Stamps*; *Phil. on Evid.*; *Roscoe on Evid.* 95; 1 *Chitty's Col. Stat.* tit. *Stamps*; and *Chitty's Stamp Laws*. Stamp duties were invented by the Dutch, in the 17th century, then adopted by the French, and first imposed in England as a mere war-tax, and not a permanent source of revenue. (See 5 W. & M. c. 21; 6 & 7 W. & M. c. 12; 1 *Chit. Col. Stat.* tit. *Stamps*.)

*Stamps.** *Sic.*

Appeal.

Mitigation.

26 Geo. 3, c. 82.
Application of
penalties.

mine the same; which said justices of the peace are hereby authorized and required, upon any information exhibited, or complaint made in that behalf, within one year after seizure made, or such offence committed, to summon the party accused and also the witnesses on either side, and upon the appearance or contempt of the party accused,* shall be convicted of the offence alleged against him, and to award and issue out warrants under their hands and seals, for levying any pecuniary penalties so adjudged, on the goods of the offender, and to cause sale to be made thereof, in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and if any party shall find himself aggrieved, or remain unsatisfied in the judgment of the said justices, then he or they shall or may, by virtue of this act, complain or appeal to the justices of the peace at the next general quarter sessions for that county, riding, or place, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same, and, in case of conviction, to issue warrants for levying penalties, as aforesaid." Sect. 172.

"That it shall and may be lawful to and for the said respective justices, where they shall see cause, to mitigate or lessen any such penalties, as they in their discretion shall think fit, the reasonable costs and charges of the officers and informers as well in making the discovery, as in the prosecution of the same, being always allowed over and above such mitigation, and so as such mitigation do not reduce the penalties to less than double the duties over and above the said costs and charges; any thing contained in this act or any other act of parliament to the contrary notwithstanding." Sect. 173.

By the 26 Geo. III. c. 82, s. 1, it is enacted, that "whosoever any person shall be convicted before a justice or justices of the peace for any offence to be hereafter committed against any act or acts of parliament now in being, or hereafter to be made, touching or concerning any the duties under the management or care of the said commissioners for managing the duties on stamped vellum, parchment, and paper, by which any pecuniary penalty or sum of money shall be forfeited, the said justice or justices of the peace before whom such person shall be convicted of the said offence, shall levy the said pecuniary penalty or sum of money in such manner as in such act or acts of parliament is contained, and apply the same to such uses and purposes, and in such proportions, as are therein contained and expressly directed, in case the same act or acts of parliament, or any other act or acts of parliament relating thereto, shall expressly direct the application thereof; and in default of such express and sufficient directions in such act or acts of parliament for the application of the said pecuniary penalty, or sum of money so forfeited upon such conviction as aforesaid, then to apply the same in such manner as is hereinafter directed."

Sect. 2. "One moiety or half part of all pecuniary penalties or forfeitures which shall be incurred by any person or persons for any offence hereafter to be committed against any law now in being, or hereafter to be made, touching or concerning any the said duties (except where a different mode of application is or shall be in the said law specially prescribed), shall belong, and be applied to the informer or informers prosecuting for the same within the space of six calendar months after such offence is committed, and the other moiety or half part of the said pecuniary penalties or forfeitures (the necessary charges for the recovery thereof being first deducted) shall be paid to the use of his majesty, his heirs, and successors, in the manner hereinafter directed."

Sect. 3. "Every distribution or division of any pecuniary penalty or forfeiture, directed to be made by this or any other act or acts of parliament touching any of the said duties, upon conviction before a justice or justices of the peace as aforesaid, shall be, and is hereby restricted and confined to the prosecuting for the same within the time hereinbefore limited; and that, in default of such prosecution within the time aforesaid, no informer or informers before a justice or justices of the peace as aforesaid, shall have or

be entitled to any part or share of such penalty or forfeiture, but that the whole thereof shall belong to his majesty, his heirs, and successors, and shall be recoverable by any the ways and means in or by any such act or acts of parliament in that behalf directed; anything in this, or any of the said acts, contained to the contrary notwithstanding."

Sect. 5. "From and after the passing of this act, in all cases where any pecuniary penalty or forfeiture for any offence committed against this, or any act or acts of parliament now or hereafter to be made, touching any the duties under the management or care of the said commissioners for managing the duties on stamped vellum, parchment, and paper, shall be incurred, it shall and may be lawful for the justice or justices of the peace, before whom any person or persons shall be convicted of the said offence, to cause the conviction upon the same offence to be made out in the form or to the effect following, *mutatis mutandis*, as the case shall happen to be; any thing in any former act contained to the contrary thereof notwithstanding; and every such conviction shall be good and effectual to all intents and purposes whatsoever, without stating the case, or the facts, or evidence, in any more particular manner; that is to say:

"Be it remembered, that on the day of in the , A. O., of , Form of conviction.
was duly convicted before me, J. P., one of his majesty's justices of the peace
for the county of [or, before us, J. P. and E. F., two of his majesty's
justices of the peace for the county of, as the case shall happen to be], in pur-
suance of an act passed in the year of the reign of , for that the
said A. O., on the day of now last past, did [here state the offence
against the act, as the case shall happen to be], contrary to the form of the statute
in that case made and provided; and I [or, we, as the case may be] do declare
and adjudge that he, the said A. O., hath forfeited, for his said offence, the
sum of , of lawful money of Great Britain, which sum of I [or, we,
as the case may be] do hereby mitigate to the sum of [here state the miti-
gated penalty, if necessary], to be distributed as the law directs. This is the first,
[second, or other offence, as the case shall happen to be]. Given under my hand
and seal [or, our hands and seals, as the case may require], this day of .

Which conviction the said justice shall cause to be wrote fairly upon parch- Appeal against the
ment, and returned to the next general quarter sessions of the peace for the conviction.
county, riding, shire, stewartry, or place, where such conviction was made,
to be filed by the clerk of the peace, and there to remain and be kept among
the records of the same county, riding, shire, stewartry, or place; and no
such conviction shall be removed by *certiorari*, into any court whatsoever,
but shall be subject to appeal before the justices of the quarter sessions, in
such manner as in and by any such act or acts of parliament is specially
directed."

The 44 Geo. III. c. 98, s. 10, enacts, that it shall not be lawful for any Actions for penal-
person to commence, prosecute, enter, or file any action, bill, plaint, or inform- ties to be com-
ation, in any of his majesty's courts, or before any justice of the peace or menced in the
other magistrate whatsoever, against any person, for the recovery of any fine, name of the at-
penalty, or forfeiture, made or incurred by virtue of this or any other act torney-general in
relating to his majesty's stamp duties, unless the same be commenced, pro- England, and ad-
secuted, entered, or filed in the name of his majesty's attorney-general, or vocate for Scot-
his majesty's advocate for Scotland, as the case may be, in England or Scot- land, or some offi-
land respectively, or in the name of the solicitor or some other officer of his cer of the stamp-
majesty's stamp duties in England or Scotland respectively. (See *Smith duties.*
v. Gillett, 4 Nev. & M. 225; 2 Ad. & Ell. 361.)

Sect. 27. "All fines imposed by this act, except where otherwise expressly Recovery and ap-
directed, shall be sued for, recovered, levied, or mitigated, as any fine by plication of
any laws in force on or before the 10th day of October, 1804, for securing penalties.
stamp duties, or by action of debt, bill, plaint, or information, in any of his
majesty's courts of record at Westminster, or in the Court of Exchequer in
Scotland respectively; and after this act all fines, heretofore imposed by any
act relating to the duties on vellum, &c., or this act, shall go to the use of

Stamps.

the king: provided, that the commissioners aforesaid may, in every case in which any part of such fine was by any such act given to any informer, give any proportion thereof, as they shall deem expedient, to any person who may inform for or discover any offence, in respect of which any such fine may be discovered, or assist in the recovery thereof."

The 5 Geo. IV. c. 41, s. 3, enacts how suits for the protection of stamp duties may be brought. See the enactment, *post*, p. 797.

By the 9 Geo. IV. c. 49, s. 18, justices may quash informations laid by any other person than an officer of stamps, on payment of costs by defendant. See the enactment, *post*, p. 799.

3 & 4 Wil. 4, c. 97.

By the 3 & 4 Wil. IV. c. 97, intituled "*An Act to prevent the selling and uttering of forged Stamps, and to exempt from Stamp Duty artificial Mineral Waters in Great Britain, and to allow a Drawback on the Exportation of Gold and Silver Plate manufactured in Ireland*," [29th August, 1833], reciting, "Whereas the laws heretofore enacted and now in force in Great Britain have been found insufficient to prevent the selling and uttering of forged stamps on vellum, parchment, and paper, and it is expedient to make further enactments in that behalf, it is enacted, that from and after the commencement of this act it shall be lawful for the commissioners of stamps, by writing under the hands of any two or more of them, to grant a licence free of expense to any person whom they in their discretion shall think fit and proper for the purpose (not being a distributor of stamps appointed by the said commissioners, nor a sub-distributor appointed by any such distributor) to vend and deal in stamps at any place or places in Great Britain to be named in such licence: provided always, that every person to whom any such licence shall be granted shall enter into a bond to his majesty, his heirs and successors, in a penal sum of 100*l.*, conditioned that such licensed person shall not sell or offer for sale or exchange, or keep or have in his possession for the purpose of sale or exchange, any stamp or stamps other than such as he shall have purchased or procured at the head office for stamps in Westminster or Edinburgh, or from some distributor of stamps duly appointed by the said commissioners, or from some person licensed to deal in stamps under the authority of this act: provided always, that such bond shall not be liable to any stamp duty, and that one licence and one bond only shall be required for any number of persons in copartnership: and provided also, that it shall be lawful for the said commissioners, whenever they shall think fit, by notice in writing signed by any two or more of them, to revoke and make void any such licence as aforesaid."

Commissioners of stamps may license persons to deal in stamps.

Persons licensed to give bond.

Condition thereof.

Bond not liable to stamp duty.

Licence may be revoked.

Particulars to be specified in licences.

No person to deal in stamps without such licence.

Penalty.

Sect. 2. "In every such licence to vend or deal in stamps there shall be truly specified the proper christian name and surname and place of abode of the person to whom the same shall be granted, and a true description of the house or shop or houses or shops in or at which he shall by such licence be authorized to vend or deal in stamps; and such person shall not be thereby authorized or entitled to vend or deal in stamps in or at any other house, shop, or place than such as shall be so specified and described in such licence."

Sect. 3. "No person other than such distributor or sub-distributor of stamps as aforesaid shall vend or deal in stamps in any part of Great Britain without having duly obtained from the commissioners of stamps a licence for that purpose, which shall be subsisting in force and unrevoked at the time of such vending or dealing; and if any person other than such distributor or sub-distributor as aforesaid shall sell or offer for sale any vellum, parchment, or paper, stamped or marked with any stamp or mark, denoting or purporting to denote any stamp duty, or shall exchange any such stamped vellum, parchment, or paper for any other stamped vellum, parchment, or paper, or for any other article or thing, without having duly obtained and having in force such licence as aforesaid, authorizing him in that behalf, or in or at any house, shop, or place not specified and described

in any such licence as aforesaid granted to him, he shall for every such offence forfeit the sum of 20*l.*; and if any proceedings shall be had for recovery of such penalty of 20*l.*, and it shall thereupon appear that any stamp or stamps impressed on any such vellum, parchment, or paper which shall have been so sold or exchanged, or offered for sale or exchanged, was or were false, forged, or counterfeit, although the same shall not have been so alleged in the information or pleading, then and in such case the said penalty shall be doubled, and judgment shall be given against the offender for the sum of 40*l.*, and the said special matter shall be stated in such judgment as the cause of such increase of penalty; and if on any such proceeding any issue shall be tried by a jury in which the selling or exchanging, or offering for sale or exchange, of such vellum, parchment, or paper, with any stamp or stamps thereon, shall be in question, such jury shall be required to say whether such stamp or stamps was or were false, forged, or counterfeit, or not: provided always, that nothing herein contained shall extend to exempt any person from the legal consequences of selling, uttering, or having in possession any vellum, parchment, or paper with any false, forged, or counterfeit stamp or stamps thereon, knowing the same to be false, forged, or counterfeit, if such knowledge shall be duly proved in any criminal prosecution or proceeding against such person for any such offence."

Nothing herein to exempt persons from consequences of uttering forged stamps.

Sect. 4. Provided always, "that it shall be lawful for any person employed to prepare, write, or ingross any deed or instrument liable to stamp duty to charge his employer with the amount of the stamp or stamps impressed on the vellum, parchment, or paper upon which such deed or instrument shall be written or ingrossed, without having obtained any such licence as aforesaid to vend or deal in stamps."

As to persons employed to write or ingross instruments liable to stamp duty.

Sect. 5. "Every person who shall be licensed under the authority of this act to deal in stamps shall cause to be painted in Roman capital letters, one inch at the least in height and of a proper and proportionate breadth, on some conspicuous place on the outside of the front of the house or shop in or at which he shall be licensed to deal in stamps, and so that the same shall be at all times plainly and distinctly visible and legible, the christian name and surname of such licensed person at full length, together with the words, 'licensed to sell stamps,' and such person shall continue such names and words so painted as aforesaid during all the time that he shall continue licensed as aforesaid; and if any person licensed as aforesaid shall neglect or omit to cause such names and words to be so painted as aforesaid, or shall neglect or omit to continue the same so painted according to the directions of this act, he shall forfeit 10*l.* for every such offence: provided always, that in the case of several persons licensed as aforesaid in copartnership it shall be sufficient if the christian name and surname of one only of such persons be painted in manner aforesaid."

Licensed dealers in stamps to paint their names, &c., in front of their houses or shops,

Penalty.

Proviso as to partners.

Sect. 6. "If any person shall write, paint, or mark, or shall cause or procure to be written, painted, or marked, or shall permit or suffer to continue written, painted, or marked, upon any part of his house, shop, or premises, either in the inside or on the outside thereof, or upon any board or any material whatever exposed to public view, and whether the same shall or shall not be affixed to such house, shop, or premises, any word or words which shall import or signify, or be intended to import or signify, that such person is a vendor of or dealer in stamps, such person not being licensed to deal in stamps under the authority of this act, and not being a distributor or sub-distributor of stamps duly appointed as aforesaid, he shall forfeit 10*l.* for every day such offence shall be committed or continued."

Penalty on unlicensed persons painting on their shops any words importing that they are dealers in stamps.

Sect. 7. "It shall be lawful for any stationer or other person who, in the regular course of his trade or business, before and at the time of the passing of this act, shall have been a vendor of stamps, and who at the time of the passing of this act shall have in his possession for the purpose of sale any stamped vellum, parchment, or paper which shall not be in any manner spoiled or rendered useless or unfit for the purpose intended, to bring or send the same to the head office for stamps in Westminster or

Allowance to be made for stamps in the possession of vendors at the time of the passing of this act.

Stamps.

3 & 4 Wil. 4, c. 97.

Proviso.

Allowance to be made for stamps in the possession of licensed vendors dying, or becoming bankrupt or insolvent, or whose licences are revoked.

Commissioners of stamps empowered to grant warrants to search and inspect the stocks of stamps of distributors and licensed dealers.

Edinburgh at any time within three calendar months next after the commencement of this act; and it shall be lawful for the commissioners of stamps, or any officer of stamp duties duly authorized in that behalf, to receive the same, and to pay to the person bringing or sending the same the amount of the stamp duty thereon, deducting therefrom such per-centage as is allowed by law on the purchase of stamps of the like description from the said commissioners, and also to pay the amount of the value of such vellum, parchment, and paper according to the rates at which vellum, parchment, and paper of the like quality and description shall be sold by the said commissioners; and thereupon such stamp shall be immediately cancelled: provided always, that the person who shall bring or send such stamped vellum, parchment, or paper to the said head office shall make proof to the satisfaction of such commissioners or authorized officer that such vellum, parchment, or paper was actually in the possession of such person for the purpose of sale at the time of the passing of this act, and shall also make proof in like manner that such stamped vellum, parchment, or paper, or the stamps impressed thereon, was or were purchased by the person who shall bring or send the same as aforesaid directly at the head office for stamps in Westminster or Edinburgh, or from some distributor or sub-distributor of stamps duly appointed as aforesaid."

Sect. 8. "If any person licensed to vend or deal in stamps shall die, or become bankrupt or insolvent, or if the licence of any person to vend or deal in stamps shall expire or be revoked, and any such person, at the time of his death, bankruptcy, or insolvency, or at the expiration or revocation of any such licence as aforesaid, shall have in his possession any quantity of stamped vellum, parchment, or paper, it shall be lawful for such person, or his executor or administrator or assignee, within three calendar months after the expiration or revocation of such licence, or next after such death, bankruptcy, or insolvency, as the case may be, to bring or send such stamped vellum, parchment, or paper to the head office for stamps in Westminster or Edinburgh; and it shall be lawful for the commissioners of stamps, or any officer of stamp duties duly authorized on that behalf, to receive the same, and to pay to the person bringing or sending the same the amount of the stamp duty thereon, deducting therefrom such per-centage as is allowed by law on the purchase of stamps of the like description from the said commissioners, and also to pay the amount of the value of such vellum, parchment, and paper, according to the rates at which vellum, parchment, and paper of the like quality and description shall be sold by the said commissioners, and thereupon such stamps shall be immediately cancelled: provided always, that the person who shall bring or send such stamped vellum, parchment, or paper to the said head office shall make proof to the satisfaction of such commissioners or authorized officer that such vellum, parchment, or paper was actually in the possession of the person so dying, or becoming bankrupt or insolvent, or having had such licence which had so expired or had been so revoked, for the purpose of sale, at the time when such person so died or became bankrupt or insolvent, or when the said licence expired or was revoked, and shall also make proof in like manner that such stamped vellum, parchment, or paper, or the stamps impressed thereon, was or were purchased or procured by the person to whom such licence shall have been granted at the head office for stamps in Westminster or Edinburgh, or from some such distributor of stamps or person licensed to deal in stamps as aforesaid."

Sect. 9. "Upon information given to the commissioners of stamps upon the oath of one or more credible person or persons (which oath the said commissioners, or any one or more of them, or any justice of the peace, are and is hereby empowered to administer) that there is reasonable cause to suspect that any such distributor or sub-distributor as aforesaid, or person licensed or who shall have been licensed under the authority of this act, hath in his possession any forged or counterfeit stamp or stamps, it shall be lawful for the said commissioners, or any three or more of them, by warrant under their hands, to authorize any officer or officers of stamp duties, and such officer or

officers is and are hereby fully authorized accordingly, with the assistance, if required, of any constable or other peace officer, to enter between the hours of nine in the morning and seven in the evening into the dwelling-house, room, shop, warehouse, outhouse, or other building of or belonging to any distributor or sub-distributor of stamps, or of or belonging to any person licensed, or who at any time within six calendar months then last past shall have been licensed as aforesaid, to vend or deal in stamps; and if, on demand of admittance and notice of such warrant, the door of any such dwelling-house, room, shop, warehouse, outhouse, or other building, or any inner door thereof, shall not be opened, then to break open the same respectively, and to search for and to seize and take into his and their possession all such stamped vellum, parchment, or paper as shall be in any such place as aforesaid, or elsewhere in the custody or possession of such distributor or sub-distributor, or person licensed or having been licensed as aforesaid; and all constables and other peace officers are hereby required, upon the request of any person or persons acting under such warrant, to aid and assist him or them in the execution thereof; and if any constable or other peace officer shall, upon any such request as aforesaid, refuse or neglect to be aiding and assisting in the execution of any such warrant as aforesaid, or if any person shall refuse to permit any such search or seizure as aforesaid to be made, or shall assault, oppose, molest, or obstruct any person employed or acting in the execution or under the authority of any such warrant, or aiding or assisting in the execution thereof, every such constable, peace officer, or other person so offending in any of the cases aforesaid, shall forfeit 50*l*."

Stamps.

3 & 4 Wil. 4, c. 97.

Power of entry.

Penalty for refusing to aid in the execution of such warrants, or assaulting persons employed in the execution thereof, 50*l*.

Sect. 10. Provided always, "that any person who shall execute any such warrant shall, if required, give to the person in whose custody or possession any stamps shall be found and seized an acknowledgment of the number, particulars, and amount of the stamps so seized, and shall permit such last-mentioned person, or any person employed by him, to mark the same before the removal thereof; and if the person in whose custody or possession any stamps shall be so found and seized shall be or shall have been within the time aforesaid a licensed vendor of stamps, he shall be entitled to claim and receive in money from the commissioners of stamps the amount of such of the stamps so seized as shall be found to be genuine, (deducting therefrom such per-centage as is allowed by law on the purchase of stamps of the like description,) and also to receive the amount of the vellum, parchment, or paper whereon the same shall be impressed, according to the rates at which vellum, parchment, and paper of the like quality and description shall be sold by the said commissioners or their distributors of stamps; or, if the said commissioners shall think fit, such of the said stamps so seized as shall be found to be genuine shall be returned to the person from whose custody or possession the same shall have been taken, with such reasonable amends as the lords commissioners of his majesty's treasury may think fit to award."

Acknowledgment to be given for stamps seized.

Licensed vendor entitled to be paid the amount of genuine stamps seized, or to have them returned to him.

Sect. 11. "Whenever any vellum, parchment, or paper shall be found in the possession of any person licensed to vend or deal in stamps, or who shall have been so licensed at any time within six calendar months then next preceding, such vellum, parchment, or paper having thereon any false, forged, or counterfeit stamp, mark, or impression resembling or representing, or intended or liable to pass or be mistaken for any stamp, mark, or impression of any die, plate, or other instrument which at any time whatever hath been or shall or may be provided, made, or used, by or under the direction of the commissioners of stamps, for the purpose of expressing or denoting any stamp duty whatever, then and in every such case the person in whose possession such vellum, parchment, or paper shall be so found shall be deemed and taken to have so had the same in his possession with intent to vend, use, or utter the same with such false, forged, or counterfeit stamp, mark, or impression thereon, unless the contrary shall be satisfactorily proved; and such person shall also be deemed and taken to have such vellum, parchment, or paper so in his possession, knowing the stamp, mark, or impression thereon to be false, forged, and counterfeit, and such person shall be liable to all penalties and punishments by law imposed or inflicted upon persons vending,

Licensed vendors having counterfeit stamps in their possession liable to the penalties of vending forged stamps, unless it be proved that they were procured from some distributor or licensed vendor.

Stamps.

3 & 4 Wil. 4, c. 97.

Persons knowingly
having forged
dies or stamps in
their possession ;

or fraudulently
affixing stamps,
&c. ;

or erasing names,
dates, &c., with
intent to use the
stamps again ;

or knowingly using
any stamped vel-
lum, &c., from
which any name,
date, &c., shall
have been fraudu-
lently erased ;

guilty of felony.

Houses of persons
suspected of being
concerned in the
forging of dies or
stamps, or in the
commission of
other felonious
acts, may be
searched.

using, uttering, or having in possession false, forged, or counterfeit stamps, knowing the same to be false, forged, or counterfeit, unless such person shall in every such case satisfactorily prove that such stamp or stamps was or were procured by or for such person from some distributor of stamps appointed by the said commissioners, or from some person licensed to deal in stamps under the authority of this act."

Sect. 12. "If any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or instrument, resembling or intended to resemble, either wholly or in part, any die, plate, or other instrument which at any time whatever hath been or shall or may be provided, made, or used, by or under the direction of the commissioners of stamps, for the purpose of expressing or denoting any stamp duty whatever ; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any vellum, parchment, or paper having thereon the impression of any such false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or other instrument as aforesaid, or having thereon any false, forged, or counterfeit stamp, mark, or impression, resembling, or representing, either wholly or in part, or intended or liable to pass or be mistaken for, the stamp, mark, or impression of any such die, plate, or other instrument which hath been or shall or may be so provided, made, or used as aforesaid, knowing such false, forged, or counterfeit stamp, mark, or impression to be false, forged, or counterfeit ; or if any person shall fraudulently use, join, fix, or place for, with, or upon any vellum, parchment, or paper any stamp, mark, or impression which shall have been cut, torn, or gotten off or removed from any other vellum, parchment, or paper ; or if any person shall fraudulently erase, cut, scrape, discharge, or get out of or from any stamped vellum, parchment, or paper any name, sum, date, or other matter or thing thereon written, printed, or expressed, with intent to use any stamp or mark then impressed, or being upon such vellum, parchment, or paper, or that the same may be used for any deed, instrument, matter, or thing in respect whereof any stamp duty is or shall or may be or become payable ; or if any person shall knowingly use, utter, sell, or expose to sale, or shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any stamped vellum, parchment, or paper from or off or out of which any such name, sum, date, or other matter or thing as aforesaid shall have been fraudulently erased, cut, scraped, discharged, or gotten as aforesaid ; then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years."

Sect. 13. "On any information given before any justice of the peace upon the oath of one or more credible person or persons (which oath such justice is hereby empowered to administer) that there is just cause to suspect any person of being or having been in any way engaged or concerned in making any false or counterfeit die, plate, or other instrument, or unlawfully marking or impressing any stamp, mark, or impression on any vellum, parchment, or paper with any such die, plate, or instrument ; or in the unlawful possession of any forged or counterfeit die, plate, or instrument, or of any vellum, parchment, or paper with any counterfeit stamp, mark, or impression thereon ; or in unlawfully or fraudulently, or without due authority, marking or impressing any lawful stamp on any vellum, parchment, or paper, or in causing or procuring the same to be so marked or impressed, or in aiding, abetting, or assisting in so marking or impressing the same ; or in the unlawful possession of any vellum, parchment, or paper, or other material, unlawfully or fraudulently or without due authority stamped or marked, contrary to any of the provisions or regulations contained in any act relating

to stamp duties; or of being or having been in any way engaged or concerned in the fraudulent erasing, cutting, scraping, discharging, or getting out of or from or off any stamped vellum, parchment, or paper any matter or thing thereon written, printed, or expressed; or in the unlawful possession of any stamped vellum, parchment, or paper from or off or out of which any matter or thing shall have been fraudulently erased, cut, scraped, discharged, or gotten as aforesaid, then and in every or any of the said cases it shall be lawful for such justice by warrant under his hand to cause any and every dwelling-house, room, workshop, outhouse, or other building, yard, garden, or other place belonging to such suspected person, or where any such person shall be suspected of being or of having been in any way engaged or concerned in the commission of any such offence as aforesaid, or of secreting any such die, plate, or instrument, or any such vellum, parchment, or paper, or any of the machinery, implements, or utensils necessary or applicable to the commission of any such offence as aforesaid, to be searched for any such stamped vellum, parchment or paper, and for any such die, plate, or instrument, machinery, implement, or utensil, or other matter or thing as aforesaid; and if any of the said several matters and things shall be found in any place so searched, or in the custody or possession of any person whatsoever not having the same by some lawful authority, it shall be lawful for the person finding any such matters or things to seize the same respectively, and to carry the same forthwith to the justice by whom such warrant shall be granted, or to any other justice of the peace having jurisdiction where the same shall be seized, who shall cause the same to be secured and produced in evidence against any person who shall or may be prosecuted in any court of justice for any of the offences aforesaid; and afterwards the said matters and things so seized, whether produced in evidence or not, shall, by order of the court or judge before whom such offender shall be tried, or by order of some justice of the peace in case there shall be no such trial, be delivered over to the commissioners of stamps, to be defaced or destroyed, or otherwise disposed of, as the said commissioners shall think fit."

Sect. 14. "If any person, whether he shall be licensed to vend or deal in stamps or not, shall hawk or carry about for sale or exchange any stamped vellum, parchment, or paper, or if any person shall utter or offer for sale or exchange, at any house, shop, or place other than the house or shop in which he shall reside or *bonâ fide* carry on his trade or business, any such stamped vellum, parchment, or paper, every such person shall forfeit the sum of 20*l.*, over and above any penalty to which he may be liable for vending or dealing in stamps without being licensed so to do; and it shall moreover be lawful for any person, without any other warrant than this act, for that purpose to apprehend any person so hawking, carrying about, uttering, or offering for sale or exchange such stamped vellum, parchment, or paper, and to take him or cause him to be taken before any justice of the peace having jurisdiction where the offence shall be committed, who shall hear and determine the matter; and if the offender shall not immediately on his conviction pay the said penalty such justice shall commit him to prison for any period of time not less than one nor more than three calendar months, unless such penalty shall be sooner paid or satisfied; and all stamped vellum, parchment, and paper which shall be found in the possession of such offender shall be forfeited to his majesty, and shall be taken possession of by such justice, and be delivered over to the commissioners of stamps, to be disposed of in any manner as they shall think fit: provided always, that if such offender shall not be apprehended and proceeded against in the manner hereinbefore directed, then the said penalty of 20*l.* shall be recoverable by any other of the ways and means provided for the recovery of penalties incurred under this act."

Sect. 15. "And for the better preventing and detecting of felonies and frauds in relation to stamped vellum, parchment, or paper, be it enacted, that it shall be lawful for any justice of the peace having jurisdiction where any stamped vellum, parchment, or paper shall be or be supposed to be concealed or deposited, upon any reasonable suspicion that such stamped vellum,

Stamps.

3 & 4 Wil. 4, c. 97.

Penalty on persons hawking stamps, 20*l.*

Hawkers of stamps may be apprehended, and taken before a justice of the peace.

Justices may issue warrants for seizing stamps suspected to be stolen or fraudulently obtained.

Stamps.

3 & 4 Wil. 4, c. 97.

parchment, or paper has been stolen or fraudulently obtained, to issue his warrant for the seizing and detaining of such stamped vellum, parchment, and paper, and for apprehending and bringing before such justice or any other justice within the same jurisdiction the person in whose possession or custody such stamped vellum, parchment, or paper shall be found, to be dealt with according to law; and if such person shall omit or refuse to account for the possession of such stamped vellum, parchment, or paper, or shall be unable satisfactorily to account for the possession thereof, or it shall not appear that the same was or were purchased by him at the head office for stamps in Westminster or Edinburgh, or from some distributor or sub-distributor of stamps, or some vendor of stamps duly licensed under the authority of this act, then and in every such case such stamped vellum, parchment, and paper, or such part thereof of which no account or no satisfactory account shall be given, or which shall not appear to have been purchased at either of the said head offices, or from some distributor or sub-distributor of stamps or licensed vendor as aforesaid, shall be forfeited to his majesty, and shall be accordingly condemned by such justice, and thereupon the same shall be delivered over to the commissioners of stamps, who shall keep the same for the space of six calendar months, and afterwards cancel and destroy the same, or dispose thereof for the use of his majesty's revenue, as they shall think fit: provided always, that if at any time within six calendar months next after such condemnation any person shall make out to the satisfaction of such justice that the vellum, parchment, or paper so forfeited, or any part thereof, was or were stolen or otherwise fraudulently obtained from him, and it shall also appear that the same was or were purchased by him at either of the said head offices, or from some distributor or sub-distributor or licensed vendor of stamps as aforesaid, it shall be lawful for such person to have the same, or such part thereof as shall be so proved to have been stolen or fraudulently obtained from him, delivered up to him, on producing a certificate under the hand and seal of such justice that the right of such person therein hath been duly proved: provided also, that no such certificate shall be given unless notice in writing under the hand of such justice shall be given to the solicitor of stamps seven clear days at the least previously to the day of hearing any claim, in respect of such stamped vellum, parchment, or paper, of the time and place appointed for such hearing."

Commissioners may discontinue dies, and provide new ones in lieu thereof.

Sect. 16. "It shall be lawful for the commissioners of stamps from time to time, whenever they shall deem it necessary or expedient, to discontinue the use of all or any of the dies heretofore provided or used, or at any time hereafter to be provided or used, for denoting or marking any stamp duty which now is or at any time hereafter shall be by law payable for or in respect of any matter or thing whatsoever, and to cause any new die or dies, with such altered device or devices respectively thereon as the said commissioners shall think fit, to be provided and used in lieu of the die or dies so discontinued."

After a day fixed by notice in the Gazette the new dies to be the only true and lawful dies.

Sect. 17. "Whenever the said commissioners shall determine to discontinue the use of any die or dies, and shall provide any new die or dies to be used in lieu thereof, and the said commissioners shall give public notice thereof by advertisement in the London and Edinburgh Gazettes respectively, then from and after such day or time as shall be fixed and appointed by such advertisement, not being within the space of one calendar month next after the same shall have been published in the said gazettes respectively, the said new die or dies so provided shall be the only true and lawful die or dies for denoting the duty charged or chargeable in any case to which such die or dies is or are respectively applicable; and all deeds and instruments for the marking or stamping of which any such new die or dies shall have been provided, and which after the day so fixed and appointed as aforesaid shall be engrossed, written, or printed upon vellum, parchment, or paper stamped or marked with any other die or dies than the said new die or dies so provided for the same as aforesaid, and also all such deeds and instruments as aforesaid which, having been engrossed, written, or printed

Deeds, &c., stamped with any other dies after the day so fixed to be deemed not duly stamped.

upon vellum, parchment, or paper stamped or marked as last aforesaid, shall not have been executed or signed by any party thereto before or upon the said day so fixed and appointed as aforesaid, shall respectively be deemed to be engrossed, written, or printed on vellum, parchment, or paper not duly stamped or marked as required by law: provided always, that in the case of any deed or instrument required to be stamped or marked with such new die or dies as aforesaid which shall be engrossed, written, or printed upon vellum, parchment, or paper stamped or marked otherwise than with such new die or dies, and which after the said day or time so fixed and appointed as aforesaid shall be first executed or signed by any party thereto at any place out of the United Kingdom, it shall be lawful for the said commissioners, and they are hereby required, upon proof of the facts to their satisfaction, to cancel and allow the stamp or stamps impressed on such deed or instrument, and to cause such deed or instrument to be stamped or marked with such new die or dies, to the same amount of duty, without payment of any penalty, provided such deed or instrument shall be produced to the said commissioners for the purpose aforesaid within one calendar month next after the same shall arrive in this kingdom."

Sect. 18. Provided always, "that whenever the said commissioners shall discontinue the use of any die or dies, and shall provide any new die or dies to be used in lieu thereof, and shall give public notice thereof by advertisement in the manner directed by this act, it shall be lawful for all persons who shall have in their custody or possession any vellum, parchment, or paper stamped or marked with any die or dies in lieu of which any such new die or dies shall have been provided, and which vellum, parchment, or paper shall, by reason of the providing of such new die or dies, be rendered useless or inapplicable for the purposes for which the same was originally designed, to send the same to the head office for stamps in Westminster or Edinburgh at any time within three calendar months next after the day so fixed and appointed by such advertisement as aforesaid; and it shall be lawful for the said commissioners, or for any officer of stamp duties duly authorized in that behalf, to cause the stamp or stamps upon such vellum, parchment, or paper to be cancelled, and such vellum, parchment, or paper or (if the said commissioners or such officer shall think fit) any other vellum, parchment, or paper to be duly stamped or marked with such new die or dies in lieu of and to an equal amount with the stamp or stamps so cancelled."

Stamps rendered useless by the discontinuance of old dies and the providing of new dies, to be allowed and exchanged.

Sect. 19. "In any case in which the commissioners of stamps are or shall be by this act or any other act relating to stamp duties authorized and directed to cancel stamps spoiled or rendered useless or unfit for the purpose intended, and to make allowance for the same by giving other stamps in lieu thereof, it shall be lawful for the said commissioners if they in their discretion shall think fit, instead of giving stamps, to refund and repay to the party entitled to such allowance the amount thereof in money, deducting therefrom such per-centage as is allowed by law on the purchase of stamps of the same description as those in respect of which such allowance shall be made; and it shall also be lawful for the said commissioners, if they in their discretion shall think fit, to refund and repay to any person possessed of any stamp or stamps which shall not have been spoiled or rendered useless or unfit for the purpose intended, but for which he shall have no immediate use or occasion, the amount or value of such stamp or stamps in money, deducting therefrom such per-centage as aforesaid upon his delivering up such stamp or stamps to the said commissioners to be cancelled, and proving to their satisfaction that the same was or were purchased by him with a *bonâ fide* intent to use the same, and that he has paid the full amount or value denoted by such stamp or stamps, without any deduction, save and except only the amount of such per-centage as aforesaid, and further, that such stamp or stamps was or were so purchased within the period of three calendar months next preceding, and if the same was or were so purchased after the passing of this act, then that the same was or were so purchased by such person at the head office for stamps in Westminster or Edinburgh, or from some distributor or sub-distributor of stamps duly appointed as

Commissioners authorized to refund in money the amount of stamps spoiled or rendered useless.

Stamps.

3 & 4 Wil. 4, c. 97.

Commissioners
may appoint offi-
cers to take affi-
davits.

Penalties reco-
verable in the
superior courts.

Commissioners
may mitigate pe-
nalties, &c.

Any justice of the
peace may deter-
mine offences sub-
ject to penalties
upon information
by solicitor or offi-
cer of stamp
duties.

Mode of pro-
ceeding.

Appeal.

aforesaid, or from some person licensed under the authority of this act to vend or deal in stamps."

Sect. 22. "And whereas it is expedient for facilitating the execution of the powers vested in the commissioners of stamps that they should be authorized to appoint officers to take affidavits; be it therefore enacted, that it shall be lawful for the said commissioners, and they or any two of them are hereby authorized, to appoint by writing under their hands and seals any officer employed under them to take and receive any affidavit or affirmation which is now by law authorized to be made before the said commissioners, or any one or more of them; and every such officer so appointed as aforesaid is hereby authorized to take and receive any such affidavit upon the oath of the person or persons making the same, and any such affirmation in the case of persons commonly called Quakers; and if any person making any such affidavit or affirmation shall knowingly and wilfully make a false oath or affirmation of or concerning any of the matters to be therein specified and set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable to." (See *ante*, "Oaths," Vol. III.)

Sect. 23. "All pecuniary penalties imposed by or which may be incurred under this act may be recovered, for the use of his majesty, his heirs and successors, in any of his majesty's courts of record at Westminster, for any offence committed in England, Wales, or Berwick-upon-Tweed, and in his majesty's court of exchequer in Scotland for any offence committed in that part of Great Britain called Scotland, by action of debt, bill, plaint, or information, wherein no essoign, protection, or privilege, nor more than one imparlance, shall be allowed: provided always, that it shall be lawful for the commissioners of stamps to mitigate or compound any such penalty, or to stay proceedings in any action, suit, or prosecution commenced for the recovery thereof, on such terms as the said commissioners shall judge proper and expedient, and also at their discretion to give all or any part of any sum paid by way of penalty or compromise to the person informing them of the offence in respect of which such sum shall be paid."

Sect. 24. Provided always, "that it shall be lawful for any justice of the peace having jurisdiction where the offence shall be committed to hear and determine any offence against this act which may subject the offender to any pecuniary penalty, and it shall be lawful for any justice, and he is hereby required, upon information given or complaint made before him by the solicitor, or any other officer of his majesty's stamp duties in England or Scotland, to summon the party accused, and also the witnesses on either side, to be and appear before the said justice or before any other justice of the peace at a time and place to be appointed for that purpose, and either on the appearance of the party accused or in default thereof it shall be lawful for such justice, or any other justice present at the time and place appointed for such appearance, to proceed to examine into the matter of fact, and upon due proof made thereof by voluntary confession of the party, or by oath of one or more witness or witnesses, to give judgment for the penalty, and to award and issue out his warrant for the levying of any penalty so adjudged, together with the costs and expenses of such proceedings, and also the costs and expenses of such warrant, and of executing the same on the goods of the offender, and to cause sale to be made of such goods in case they shall not be redeemed within five days, rendering to the party the overplus, if any; and where the goods of such offender cannot be found sufficient to answer the penalty and all such costs and expenses, it shall be lawful for such justice and he is hereby required to commit such offender to the common gaol or house of correction, there to remain for any time not less than three calendar months and not exceeding six calendar months, unless such penalty and all such costs and expenses shall be sooner paid and satisfied; and if the person convicted shall find himself aggrieved by the judgment of any such justice, it shall be lawful for such person to appeal against the same to the justices of the peace at the general

or quarter sessions of the peace for the county or place within which the offence shall be committed which shall be held next after the expiration of ten days from the day on which such conviction shall have been made, of which appeal notice in writing shall be given to the prosecutor or informer seven clear days previous to the first day of such sessions ; and such justices at such sessions are hereby authorized to examine witnesses upon oath, and finally to hear and determine such appeal ; and in case the judgment of any such justice shall be affirmed, it shall be lawful for the justices at such sessions to award and order the person appealing to pay such costs occasioned by such appeal as to them shall seem meet : provided always, that no person convicted before any such justice shall be entitled or permitted to appeal against such conviction in manner aforesaid, unless within three days next after such conviction made he shall enter into a recognizance with two sufficient sureties before such justice to enter and prosecute such appeal, and to pay the amount of the penalty and costs in which he shall have been convicted, and also to pay such further costs as shall be awarded in case such conviction shall be affirmed on the hearing of such appeal : provided also, that no such proceedings so to be had or taken shall be quashed or vacated for want of form, or shall be removed by *certiorari*, suspension, advocacy, or reduction, or by any other writ or process, into any superior or other court or jurisdiction ; any law or usage to the contrary notwithstanding."

Stamps.

3 & 4 Wil. 4, c. 97.

Proceedings not to be quashed for want of form, or removed.

Sect. 25. "It shall be lawful for any justice of the peace before whom any person shall be convicted of any offence against the provisions of this act which may subject the offender to any pecuniary penalty to mitigate such penalty as he shall see fit ; provided that all reasonable costs and charges expended or incurred in prosecuting for such offence shall be always allowed over and above the sum to which such penalty shall be mitigated, and so as such mitigation do not reduce the penalty to less than one-fourth of the penalty incurred, exclusive of such costs and charges ; any thing herein contained to the contrary notwithstanding."

Justices may mitigate penalties.

Sect. 26. "All actions and prosecutions which shall be brought or commenced against any person for any thing done in pursuance or under the authority of this act shall be commenced and prosecuted within three calendar months next after the fact committed, and not afterwards, and shall be brought and tried in the county or place where the cause of action shall arise, and not elsewhere ; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action ; and the defendant in such action may plead the general issue, and give this act and any other matter or thing in evidence at any trial to be had thereupon ; and if the cause of action shall appear to arise from any matter or thing done in pursuance and by the authority of this act, or if any such action shall be brought after the expiration of such three calendar months, or shall be brought in any other county or place than as aforesaid, or if notice of such action shall not have been given in manner aforesaid, or if tender of sufficient amends shall have been made before such action commenced, or if a sufficient sum of money shall have been paid into court after such action commenced by or on behalf of the defendant, the jury shall find a verdict for the defendant ; and if a verdict shall pass for the defendant, or if the plaintiff shall become nonsuit, or shall discontinue any such action, or if, on demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs of suit as between attorney and client, and shall have the like remedy for the same as any defendant may have for costs of suit in other cases at law ; and although a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be had shall at the time of such trial certify in writing his approbation of the action and of the verdict obtained thereupon."

Limitation of actions.

Venue.

Notice of action.

General issue.

Tender of amends.

Sect. 27. "And in order to avoid the frequent use of divers terms and expressions in this act, and to prevent any misconstruction of the terms and

Construction of the terms used in this act.

Stamps.

3 & 4 Wil. 4, c. 97.

expressions used therein, be it enacted, that wherever in this act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction."

Commencement of act.

Sect. 28. "This act shall commence and take effect on the 11th day of October, 1833."

Documents exempted from stamps.

By the 6 & 7 Wil. III. c. 12, s. 2, any warrant made by, or recognizance taken before any justice or justices of the peace, are declared to be exempted from stamp duties. See also the 44 Geo. III. c. 98, schedule (A).

By the 44 Geo. III. c. 98, s. 19, nothing in that act shall extend to charge with any duty any proceedings with respect to persons admitted to sue or defend in *forma pauperis*. See also the 5 Wil. III. c. 21, s. 14.

Nor any proceedings of any court-martial, relative to the trial of any common soldier; or any orders, decrees, or proceedings, before any commissioners of sewers, or in the court of stannaries; nor any instruments, matters, or things relating to the purchase or redemption of any land-tax. See also the 42 Geo. III. c. 116, s. 81.

By the 44 Geo. III. c. 98, commissions granted to any officers of volunteer or yeomanry cavalry or volunteer infantry are exempted from stamp duties.

And by the 52 Geo. III. c. 38, s. 199, no commission granted to any officer of the local militia shall be subject to any stamp duty.

The 5 Geo. IV. c. 41, exempts law proceedings from stamp duties. See, *post*, 797.

Penalty for writing before stamped.

By the 5 & 6 Wil. III. c. 21, s. 11, if any person shall write on any paper or parchment any of the matters or things for which such paper or parchment is by the act charged to pay duty, before it be duly stamped, he shall forfeit 500*l.* (reduced to 5*l.* by 6 & 7 Wil. III. c. 12, s. 7, and by the 9 & 10 Wil. III. c. 25, s. 59, 5*l.* more); and an officer offending shall over and above forfeit his office.

And by the 5 & 6 Wil. III. c. 21, s. 11, if any instrument shall be written by any person (not being a known clerk or officer in respect of his office entitled to write the same) on paper or parchment not duly stamped, there shall be paid over and above the duty, the sum of 5*l.* (and by the 9 & 10 Wil. III. c. 25, s. 59, 5*l.* more); and the instrument shall not be given in evidence in any court, until both the duty and the said sum shall be paid, and a receipt produced for the same under the hand of some officer appointed to receive the duties, and until the same shall be stamped.

Memorandums or agreements may be stamped within twenty-one days.

The 23 Geo. III. c. 58, s. 5, provides, that no memorandum or agreement not stamped shall be deemed void, if stamped at the head office, or the duty paid and a receipt given thereon for the same by the proper officer receiving such duty, within twenty-one days after such agreement shall have been entered into.

Writing to be near the stamp.

By the 1 Anne, st. 2, c. 22, s. 5, all matters and things shall be written either upon, or as near as conveniently may be, to the stamp; on pain of 10*l.*, with full costs.

The same stamp not to serve twice.

Sect. 2, 3. If any person shall write any thing in respect whereof the stamp duties are payable, on any piece of paper or parchment, whereon there shall have been before any writing in respect whereof any duty was payable, before the same hath been again stamped; or shall erase or scrape out any name, sum, date, or other thing, or fraudulently take off any stamp, with intent to use it in any other thing in respect whereof any duty is payable; he shall forfeit in like manner as for writing on paper unstamped, and also 20*l.*, with full costs. (See also the 6 Geo. I. c. 21, s. 56.)

12 Geo. 3, c. 48.

And by the 12 Geo. III. c. 48, every such person so offending shall be

guilty of felony, and transported for a term not exceeding seven years; and if he return before the expiration of his term, he shall be guilty of felony, without benefit of clergy, and may be tried in the county where he was apprehended. And if an offender, being out of prison, shall discover any other offender so as he be convicted, such discoverer shall have a pardon.

By the 5 Geo. III. c. 46, s. 39, stamps spoiled before the writing thereon hath been executed, may, upon oath made thereof before the commissioners, be exchanged at the stamp-office. 5 Geo. 3, c. 46.
Stamps spoiled.

And by the 44 Geo. III. c. 98, s. 17, the commissioners of stamps may make such regulations for preventing fraudulent claims, and for regulating the times and places for cancelling or allowing other stamps, as they shall think proper; and see the 3 & 4 Wil. IV. c. 97, s. 19, *ante*, 777.

By stat. 53 Geo. III. c. 108, s. 11, powers of the commissioners of stamps to allow and exchange spoiled stamps, are extended to a variety of cases of instruments signed by the parties.

By s. 14, provision is made for the allowance of spoiled stamps on bills of exchange and promissory notes.

Sect. 15, relates to the allowance of stamps as spoiled on certain articles of clerkship to attorneys.

Sect. 16. And where the commissioners are already authorized to allow as spoiled and to exchange any stamps used for instruments not fully written or not signed by any party, they shall not make the allowance unless the stamps shall be brought for that purpose to them at their head office within six calendar months after the same shall have been spoiled, if the same shall belong to persons resident in *London* or *Westminster*, or within ten miles thereof respectively, or within twelve calendar months after the same shall have been spoiled, if belonging to persons resident elsewhere.

By the 23 Geo. III. c. 49, s. 14, "all vellum, parchment, and paper upon which any such bill of exchange, promissory note, or other note, draft, or order, receipt, or other discharge, given for the payment of money, shall be engrossed or written, shall, before the same shall be engrossed or written, be brought to the head office for stamping and marking of vellum, parchment, and paper; and the said commissioners, by themselves or their officers, shall from time to time stamp or mark, as this act directs, any quantities of vellum, parchment, or paper, upon payment of the said duties; and if any such bill of exchange, promissory note, or other note; draft or order, receipt or other discharge, given for the payment of money, so hereby directed to be stamped, shall not be stamped or marked, as by this act is directed, or shall be marked or stamped for a lower duty than as aforesaid, no such bill of exchange, promissory note, or other note, draft or order, receipt or other discharge, shall be pleaded or given in evidence, in any court, or admitted in any court to be good or available in law or equity." All vellum, paper, &c., to be stamped before engrossed or written upon.

By 31 Geo. III. c. 25, s. 10, "all and every person or persons who shall write or sign, or cause to be written or signed, or who shall accept or pay, or cause to be accepted or paid, any bill of exchange, promissory note, or other note, draft or order, liable to any of the duties by this act imposed upon any piece of vellum, parchment, or paper, without the same being first duly stamped or marked with a proper stamp or mark, in the manner herein prescribed, or upon which there shall not be some stamp or mark resembling the same, shall, for every such offence, forfeit and pay the sum of 20*l.*, to be recovered as hereinafter is directed." Penalty on persons signing, &c. unstamped bills.

Sect. 19. "No bill of exchange, promissory note, or other note, draft or order, liable to be stamped as directed by this act, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the same be duly stamped; and that it shall not be lawful for the said commissioners or their officers to stamp or mark any vellum, parchment, or paper with any stamp or mark directed to be used or provided by virtue of this act, at any time after any bill of exchange, promissory note, or other note, draft or order, (or any receipt, discharge, or acquittance, except as herein is otherwise provided), shall be Bill or note not duly stamped, inadmissible in evidence, &c.
Commissioners prohibited from stamping.

Stamps.

35 Geo. 3, c. 55.

The full sum to be expressed in receipts; and any note, &c., given upon the payment of any money, to be liable to duty.

Receipts, &c., in full, liable to a duty of 2s.

No unstamped receipt, &c., available in law.

Memorandums, &c., for money received, though not signed, to be deemed receipts.

engrossed, written, or printed thereon, under any pretence whatsoever; any thing in this act contained, or any law or statute, to the contrary notwithstanding." (See 35 Geo. III. c. 55, s. 10, 11, *post*; "*Evidence*," Vol. II. p. 74.)

By the 35 Geo. III. c. 55, s. 5, "the full and just sum of money for which any receipt, discharge, or acquittance shall be given, and the true date thereof, shall be *bonâ fide* respectively inserted therein; and that all notes, memorandums, or writings whatever, given to any person or persons, for or upon the payment of money amounting to 40s. (a) or upwards, whereby any sum of money shall be acknowledged to have been paid, settled, received, accounted for, balanced, discharged, released, or in any manner satisfied, or which shall in any manner signify or denote such acknowledgment, as aforesaid, and whether the same shall or shall not be signed by or with the name or names of the person or persons by or on whose behalf the same shall be given, shall be respectively taken and construed to be receipts within the true intent and meaning of this act; and shall be liable to the respective duties imposed thereon, as well by the said recited act as this act, and shall be paid and payable by the person or persons by whom or on whose behalf such receipts, discharges, or acquittances shall be required (except such receipts, discharges, or acquittances as shall be at any time or times given upon the payment of money in respect of any salary or pension, debt, or other sum, payable from his majesty, his heirs and successors; in all which cases the duties shall be paid by the person or persons giving such receipts, discharges, or acquittances); and which rates and duties, in default of payment thereof, according to the regulations of this act, shall and may be charged upon and levied against the person or persons by whom the same are hereby made payable, his, her, or their respective executors, administrators, or assigns."

Sect. 6. "Every receipt, discharge, or acquittance, note, memorandum, or writing whatever, given to any person or persons for or upon the payment of money, which shall contain or express, or in any manner signify or denote, any general acknowledgment of any debt, claim, account, or demand, or all or any debts, claims, accounts, or demands being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be in full, or in discharge or satisfaction, of all or any such debts, claims, accounts, or demands, or intended so to be, and whether the same shall or shall not be signed by or with the name or names of the person or persons by or on whose behalf the same shall be given, shall be deemed and taken to be a receipt for the sum of 500*l.* and upwards, within the true intent and meaning of this act, and shall be liable to the stamp duty of 2s., by the said recited act and this act imposed thereon; and no such receipt, discharge, or acquittance, note, memorandum, or writing, shall be pleaded or given in evidence in any court, or admitted in any court, to be useful or available in law or equity as an acknowledgment of any debts, claims, accounts, or demands being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, whether generally or otherwise, or for any other or greater sum of money than the sum of money therein expressed, unless the same shall be stamped with the proper stamp to denote the said duty of 2s. hereby imposed; any thing in such receipt, discharge, acquittance, note, memorandum, or writing, expressed notwithstanding."

Sect. 7. "Every note, memorandum, or writing whatever, given to any person or persons for or upon the payment of money, which shall contain or express, or in any manner signify or denote, any acknowledgment of any part of any debt, claim, account, or demand being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, whether the same shall or shall not be signed by or with the name or names of the person or

(a) By the 3 & 4 Wil. IV. c. 23, s. 1, the stamp duties on receipts under 5*l.* are repealed.

persons by or on whose behalf the same shall be given, shall be deemed and taken to be a receipt within the true intent and meaning of the said recited act and this act, and shall be liable to a stamp duty in respect of the sum actually paid."

Stamps.

35 Geo. 3, c. 55.

Sect. 8. "All and every person or persons who shall write or sign, or cause to be written or signed, any receipt, discharge, or acquittance, given for or upon the payment of money liable to any stamp duty charged by the said recited act or this act, upon any piece of vellum, parchment, or paper, without the same being first duly stamped, or marked with a stamp or mark, as herein is directed, or upon which there shall be a stamp or mark of lower denomination or value than is by the said recited act and this act charged in respect thereof, shall forfeit and pay the sum of 10*l.*, in case the sum paid, contained or expressed in such receipt, discharge, or acquittance shall not amount to the sum of 100*l.*, and the sum of 20*l.*, in case such sum shall amount to 100*l.* or upwards." (And see 31 Geo. III. c. 25, s. 17.)

Penalty on persons signing receipts unstamped, &c.

Sect. 9. "All and every person or persons who shall give any receipt, discharge, or acquittance, or any note, memorandum, or writing, acknowledging the payment of money, in which a less sum shall be expressed than the sum actually paid or received, or who shall separate or divide the sum demanded, or actually paid or received, into divers sums, with intent to evade the said duties, or any of them; or shall, with the like intent, write off any part of any debt, claim, or demand, or who shall be guilty of or concerned in any fraudulent contrivance or device whatsoever, with intent or design to defraud his majesty, his heirs or successors, of any of the said duties by the said act or this act imposed, shall, for every such offence, forfeit and pay the sum of 50*l.*, to be recovered in manner as hereinafter is directed." (And see 43 Geo. III. c. 126, s. 5, *post*, 787, by which the payee is to discharge the duty.)

Persons giving receipts for less than actually paid, liable to penalty.

Sect. 10. "All vellum, parchment, and paper, liable to any stamp duty by the said recited act or this act, shall, before any of the matters or things thereby or hereby charged shall be engrossed, printed, or written thereupon, be brought to the head office for stamping or marking vellum, parchment, or paper; and the said commissioners, by themselves, or by their officers employed under them, shall and may from time to time stamp and mark, according to the directions of the said recited act and this act, any quantities or parcels of vellum, parchment, or paper, before any of the matters or things thereby or hereby charged shall be engrossed, printed, or written thereupon, upon payment of the several duties payable for the same by virtue of the said recited act and this act; and no receipt, discharge, acquittance, note, or memorandum, or writing aforesaid, liable to the duties by the said recited act or this act imposed, or any of them, *shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity*, unless the vellum, parchment, or paper on which such receipt, discharge, acquittance, note, memorandum, or writing, as aforesaid, shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark, to denote the rate or duty as by the said recited act or this act is directed, or some higher rate or duty in the said recited act or this act contained; and it shall not be lawful for the said commissioners or their officers to stamp or mark any vellum, parchment, or paper, with any stamp or mark directed to be used or provided by virtue of the said recited act or this act, at any time after any receipt, discharge, or acquittance shall be engrossed, written, or printed thereon, under any pretence whatever, except as herein is otherwise provided; any thing in the said recited act or this act contained, or any law or statute to the contrary thereof notwithstanding." (See the 31 Geo. III. c. 25, s. 19, *ante*, 781.)

Vellum, &c., to be stamped before written upon.

Prohibits commissioners from stamping any receipt after the same has been made.

Sect. 11. Provided always, "that if any receipt, discharge, or acquittance, given upon the payment of money, and written on vellum, parchment, or paper, not stamped, as by the said recited act and this act is directed, shall be brought to the said commissioners, or their officers employed by them for that purpose, to be stamped according to the directions of the said recited act and of this act, within the space of *fourteen days* after such receipt, discharge, or acquittance shall be given or shall bear date, the same shall and

Receipts, &c., may be stamped within a certain time.

Stamps.

35 Geo. 3, c. 55.

may be permitted to be stamped on payment of the sum of 5*l.*, over and above the duty payable for the same by virtue of the said recited act and this act; and if any such receipt, discharge, or acquittance shall be brought to be stamped, as aforesaid, after the expiration of such fourteen days, and within *one calendar month* after such receipt, discharge, or acquittance shall be given, or shall bear date, the same shall and may be permitted to be stamped on payment of the sum of 10*l.*, over and above the duty payable for the same by virtue of the said recited act and this act; and the proper officer or officers are hereby enjoined and required, upon such receipt, discharge, or acquittance being brought to them, within the respective times hereinbefore limited, and upon payment of the duty imposed thereon by the said recited act or this act, and the respective sums aforesaid, but not otherwise, to mark or stamp such receipt, discharge, or acquittance with the proper mark or stamp by the said recited act and this act required for the same."

Persons not bringing indentures, &c., not duly stamped, to be so stamped, to forfeit 20*l.*

No indenture, &c., available unless duly stamped.

Such provisions extended.

By the 37 Geo. III. c. 19, s. 3, "if any attorney, solicitor, clerk, officer, or other person, shall engross, print, or write, or cause to be engrossed, printed, or written, any indenture, lease, bond, or other deed, on vellum, parchment, or paper, not duly stamped according to the directions of this act, and shall neglect to bring the same to be duly stamped in the manner and within the time hereby directed and allowed for stamping the same, every such attorney, solicitor, clerk, officer, or other person, shall forfeit and pay the sum of 20*l.*, and no such indenture, lease, bond, or other deed, shall be pleaded or given in evidence, or be good, useful, or available in any manner whatever, unless the same shall be stamped as required by this act."

By the 37 Geo. III. c. 90, s. 9, "all the provisions, rules, and matters, prescribed by an act passed in this session of parliament, for the more effectually securing the stamp duties on indentures, leases, bonds, and other deeds, and not hereby altered, shall be extended, applied, and put in practice for the stamping such indentures, leases, bonds, deeds, agreements, and copies of indentures, leases, bonds, and other deeds, according to the true intent and meaning of this act, as fully and effectually as if the same had been re-enacted in this act; and if any attorney, solicitor, clerk, officer, or other person, shall engross, print, or write, or caused to be engrossed, printed, or written, any agreement, or any copy purporting to be a true copy, or attested to be a true copy of any indenture, lease, or deed, not duly stamped according to the directions of this act, and shall neglect to bring the same to be duly stamped within the time directed and allowed for stamping indentures, leases, bonds, and other deeds, by the said act passed in this session of parliament, every such attorney, solicitor, clerk, officer, or other person, shall forfeit and pay the sum of 20*l.*, to be recovered and applied as any penalty imposed by the said act may be recovered and applied; and no such agreement or copy shall be pleaded or given in evidence, or be good, useful, or available, in any manner whatever, unless the same shall be stamped as required by this act."

By the 37 Geo. III. c. 136, reciting, "whereas deeds and other instruments cannot be given in evidence, nor are in any manner available, unless stamped with proper stamps provided for such purpose; and whereas, from the variety of stamps provided for different purposes, mistakes have arisen, and may again arise, in the use of such stamps, for want of knowing the proper denomination or value required in particular cases; and whereas, in many instances, such instruments cannot be stamped after execution, without paying accumulated penalties, under acts passed from time to time for imposing stamp duties;" it is enacted, "that if any vellum, parchment, or paper, whereupon any instrument, matter, or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders), shall have been or shall be engrossed, printed, or written, liable in respect thereof to be stamped with a stamp or stamps of a particular denomination or value, and whereon there is or shall be impressed any stamp or stamps of a different denomination, but of an equal or greater value with the stamp or stamps required at the time of making, signing, or executing the said instrument, matter, or thing,

Instruments (except bill and notes), on stamps of a different denomination, but of an equal or greater value than the proper stamp, on production at the

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shall be produced to the commissioners of stamp duties at their head office of stamps, or to such officer as the said commissioners, or the major part of them, shall appoint for such purpose, it shall be lawful for the said commissioners, or their officer, as aforesaid, in every such case, and upon payment of the duty by law payable for such vellum, parchment, or paper, in respect of the instrument, matter, or thing engrossed, printed, or written thereon, at the time such vellum, parchment, or paper shall be produced, as aforesaid, and on penalty of 5*l.*, to stamp, or cause to be stamped, such vellum, parchment, or paper (except as aforesaid), with the proper stamp or stamps provided and in use for the same, at the time such vellum, parchment, or paper shall be produced to be stamped, as aforesaid, without making any allowance for the stamp or stamps before marked thereon; and every instrument, matter, or thing so stamped shall have and be deemed of the like force and validity in the law as if the same had been duly stamped before such instrument, matter, or thing had been engrossed, printed, or written thereon; any former law to the contrary notwithstanding."

37 Geo. 3, c. 136.
stamp-office, and payment of the legal duty, and 5*l.* penalty, may be stamped with the proper stamp.

Sect. 2. "That, where any skin or piece of vellum or parchment, or sheet or piece of paper, on which any matter or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders,) shall have been engrossed, printed, or written, shall be brought to the said commissioners to be stamped after the same shall have been executed, the same not having been stamped with any stamp, or having been stamped with a stamp of less value than is by law required, and the person or persons producing the same is desirous of having the same duly stamped, but the same cannot, according to the laws in force, be stamped without payment of accumulated penalties, exceeding 10*l.*, besides the duty, that then and in every such case it shall and may be lawful for the said commissioners, or the major part of them, to direct the proper officer or officers, and such officer or officers is and are hereby required, to stamp the same, on payment of the duty by law payable for such vellum, parchment, or paper, in respect of the instrument, matter, or thing engrossed, printed, or written thereon; and one penalty of 10*l.* only for every such skin or piece of vellum or parchment, or sheet or piece of paper, although the duty payable for the same shall have been imposed by more than one act of Parliament, and notwithstanding the penalties thereupon may have accumulated to a larger sum than the said sum of 10*l.*; and every instrument, matter, or thing engrossed, printed, or written on any vellum, parchment, or paper so stamped, as aforesaid, shall have and be deemed of the like force and validity in the law as if the vellum, parchment, or paper so stamped, had been duly stamped before such instrument, matter, or thing had been engrossed, printed, or written thereon; any former law to the contrary notwithstanding."

Instruments (bills and notes excepted), unstamped, or on stamps of less than the legal value, may be duly stamped, on payment of the duty, and 10*l.* penalty for each skin, &c.

Sect. 3. "Provided always, that in any case where it shall appear to the commissioners of stamp duties, upon oath or affirmation to be made before any one or more of the said commissioners of stamp duties (which oath or affirmation he is hereby authorized to administer), or otherwise to their satisfaction, that any instrument whatever required by law to be engrossed, printed, or written on stamped vellum, parchment, or paper, hath not been engrossed, printed, or written on vellum, parchment, or paper duly stamped, as aforesaid, either by accident or inadvertency, or from urgent necessity or unavoidable circumstance, and without any intention in any party or parties thereto to defraud his majesty of the duties payable thereon, and such instrument shall be brought to the said commissioners to be stamped, as aforesaid, within sixty days after the making or execution thereof, it shall be lawful for such commissioners of stamp duties to remit the penalty payable on stamping such instrument, or any part thereof, as they shall deem expedient; and every person concerned in engrossing, printing, or writing any such instrument, or in making or executing the same, shall be and is hereby freed, discharged, and indemnified from all further penalties and forfeitures, than such penalties or forfeitures, or such parts thereof, as shall not be so remitted by order of the said commissioners of stamp duties."

If instruments not duly stamped, without intention of fraud, be brought to be so stamped within sixty days after execution, commissioners may remit the penalty.

Sect. 4. "And whereas the commissioners of his majesty's stamp duties
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7 Geo. 3, c. 136.

The additional duties imposed by 37 Geo. 3, c. 90, may be stamped on parchment, &c. used before Sept. 29, 1797; which shall be brought to the head office before Nov. 1, on payment of duty.

31 Geo. 3, c. 25, prohibiting commissioners from stamping bills and notes after they are complete, recited.

Bills of exchange, &c., made after passing of this act, liable to stamp duty under recited act, if on stamps of an equal or superior value, though on different denominations than the legal stamp, may be properly stamped, on payment of the duty, and a penalty.

Penalty to be

have not been able to supply the different parts of the kingdom with sufficient quantities of vellum, parchment, and paper, stamped with the additional duties granted by an act of the present session of Parliament, before the period appointed for the commencement of the said duties, and several persons have necessarily used instruments without such stamps; be it enacted, that it shall be lawful for any person or persons who shall have used, or shall at any time before the 29th day of September, 1797, use any vellum, parchment, or paper, on which such additional duty is imposed, and which shall be duly stamped in the manner required by the laws in force on and immediately before the passing of the said act, to bring or send the same to the said head office at any time before the 1st day of November, in order that the same may be stamped, as aforesaid, on payment of the additional duty granted by the said act; and it shall be lawful for the said commissioners of stamp duties, or their officers appointed for such purpose, to stamp the same, on payment of the said additional duty only, without any penalty; and all and every person and persons concerned in engrossing, printing, or writing any matter or thing on such vellum, parchment, or paper, as aforesaid, or in using the same in manner aforesaid, shall be, and is, and are hereby indemnified, freed, and discharged from and against all penalties and forfeitures incurred or to be incurred thereby, before the stamping the same in manner aforesaid."

Sect. 5. And whereas, by an act passed, &c. (31 Geo. III. c. 25), "certain stamp duties were imposed on bills of exchange, promissory notes, and others, respectively, and it was thereby enacted that all vellum, parchment, and paper, before any bill of exchange, promissory note, or other note, liable to any stamp duty by the said act imposed, should be engrossed, printed, or written thereon, should be brought to the head office for stamping such vellum, parchment, and paper; and that it should not be lawful for the commissioners for managing the duties on stamped vellum, parchment, and paper, or their officers, to stamp any vellum, parchment, or paper, at any time after any bill of exchange, promissory note, or other note, draft, or order, should be written thereon, under any pretence whatsoever;" be it enacted, "that it shall and may be lawful for any person or persons who shall be the holder or holders of any bill of exchange, promissory note, or other note, draft, or order, made after the passing of this act, and liable to any stamp duty by virtue of the said recited act, which shall be stamped with a stamp of a different denomination than is required by the said act, if the same shall be of equal or superior value to the stamp required, to produce the same, or cause the same to be produced, within the respective times hereinafter mentioned, to the commissioners appointed to manage the said duties, at the head office of stamps in Middlesex, or to such officer or officers as the said commissioners, or the major part of them, shall, by writing under their hands, appoint for such purpose; and it shall and may be lawful for such commissioners to direct the proper officer or officers, and such officer or officers is and are hereby required, upon payment of the duty payable on such vellum, parchment, or paper, by the said recited act, and such penalty as is hereinafter mentioned, over and above the said duty, to mark or stamp such bill of exchange, promissory note, or other note, draft, or order, with the proper mark or stamp, and to give a receipt for the duty and penalty so paid on the back of such bill of exchange, promissory note, or other note, draft, or order, so stamped; and every such bill of exchange, promissory note, or other note, draft, or order, so stamped, shall have and be deemed of the like force and validity in the law as if the same had been duly stamped according to the directions of the said recited act; and all and every person or persons procuring such bill of exchange, promissory note, or other note, draft, or order, to be stamped, as directed by this act, shall be, and is, and are hereby indemnified, freed, and discharged, from and against all penalties and forfeitures incurred by reason of such bill of exchange, promissory note, or other note, draft, or order, not having been duly stamped according to the directions of the said act."

Sect. 6. "If any such bill of exchange, promissory note, or other note,

draft, or order, shall be produced to the said commissioners before the same shall be payable, according to the tenor and effect thereof, the same shall be stamped on payment of the said duty, and the penalty of 40s.; but, in case such bill of exchange, promissory note, or other note, draft, or order, shall be payable according to the tenor and effect thereof, before the production thereof to the said commissioners for the purpose before mentioned, then the same shall not be stamped, unless on payment of the duty, and the sum of 10*l.* for the said penalty."

The 43 Geo. III. c. 126, repeals the prior enactments as far as respects the amount of the duties, and imposes new duties, and declares what shall be deemed a receipt in full, and that, if the stamp be improper, the person giving the receipt shall remain liable to pay the proper duty. It is enacted by sect. 5, "that it shall be lawful for any person or persons, or any agent or agents of any person or persons, from whom any sum or sums of money shall be due or payable, or claimed to be due or payable, and who shall have paid such sum or sums of money to provide a piece of paper, vellum, or parchment, duly stamped with the proper duty, and according to the amount of the sum or sums so paid, as aforesaid, or some higher rate of duty in this act contained, and to demand and require of the person or persons entitled to such sum or sums of money, or any agent or agents to whom the same shall have been paid, a receipt, discharge, and acquittance for such sum or sums of money, and also the amount of the duty thereon, as aforesaid; and if any person to whom any sum or sums of money shall have been paid, as aforesaid, shall refuse to give such receipt, discharge, and acquittance, upon demand thereof, or pay the amount thereof, as aforesaid, every such person shall forfeit and pay for every such offence the sum of 10*l.*, to be recovered as any penalty may be recovered under the said recited acts." And see 35 Geo. III. c. 55, s. 8, 9, *ante*, 783.

Sect. 6. "No receipt, discharge, or acquittance, aforesaid, liable to the duties by this act granted, or any of them, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the vellum, parchment, or paper on which such receipt, discharge, or acquittance shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark, to denote the rate of duty, as by this act is directed, or some higher rate of duty in this act contained."

By the 43 Geo. III. c. 127, s. 5, after reciting, "that by an act passed in the thirty-seventh year of the reign of his present majesty, intituled, 'An Act to enable the Commissioners of Stamp Duties to stamp Deeds and other Instruments, Bills of Exchange, Promissory and other Notes in the cases therein mentioned, for it is amongst other things enacted, that it shall be lawful, the said commissioners or their officer, upon payment of the duty and a penalty of 5*l.* in the said act mentioned, to stamp any vellum, parchment, or paper, whereupon any instrument, matter, or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders) shall have been, or shall be engrossed, printed, or written, liable in respect thereof, to be stamped with a stamp or stamps of a particular denomination or value, and whereon there is or shall be impressed any stamp or stamps of a different denomination, but of an equal or greater value, in certain cases therein mentioned: and whereas it is expedient to permit the same to be done without payment of the said penalty,' it is enacted, "that it shall be lawful for the said commissioners or their officer as aforesaid, from and after the passing of this act, to stamp or cause to be stamped any such vellum, parchment, or paper (except as aforesaid), in any of the cases hereinbefore mentioned, without payment of the said penalty of 5*l.* required by the said recited act; and every instrument, matter, or thing so stamped shall have and be deemed of the like force and validity as if the said penalty of 5*l.* had been paid, pursuant to the direction of the said act."

Sect. 6. Every instrument, matter, or thing, although stamped, or impressed with any stamp of greater value than the stamp required by law, shall be valid and effectual, provided such stamp shall be of the denomina-

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37 Geo. 3, c. 136.
paid on stamping said bills, 40*s.*, if before bill is payable; 10*l.* afterwards.

Persons requiring the receipt may provide the stamp and demand payment of duty from party giving receipt, who shall pay it, on penalty of 10*l.*

No receipt to be given in evidence, unless stamped.

43 Geo. 3, c. 127, recites 37 Geo. 3, c. 136, s. 3.

Instruments, &c. having an improper stamp of an equal or greater value, may be re-stamped without penalty.

Instruments with stamp of greater value than requisite, valid.

Stamps.

44 Geo. 3, c. 98.

Where instruments (except bills, &c.) have, without fraudulent intention, been written on improper stamps, the commissioners may remit the penalty, if brought to be duly stamped within twelve months after execution.

Receipts may be stamped as now allowed.

And all former allowances (not repealed) may be made.

Stamp on appraisements.

Duty on licences to appraisers, 6s.

Persons appraising property for hire to be deemed appraisers

tion required by law for such instrument, matter, or thing, any statute, law, or usage to the contrary notwithstanding.

By the 44 Geo. III. c. 98, s. 24, "in any case where it shall appear to the commissioners of his majesty's stamp duties, upon oath or affirmation, to be made before any one or more of the said commissioners (which oath or affirmation he or they is or are hereby authorized to administer), or otherwise to their satisfaction, that any instrument, matter, or thing whatsoever, (except bills of exchange, promissory notes, or other notes, drafts, orders, or receipts) required by law to be engrossed, printed, or written on stamped vellum, parchment, or paper, hath been engrossed, printed, or written on vellum, parchment, or paper not duly stamped with a stamp of the value by this act required, either by accident or inadvertency, or from urgent necessity, or unavoidable circumstances, and without any wilful delay or intention in any party or parties thereto to evade the duties by this act imposed, or to defraud his majesty thereof, and such instrument, matter, or thing shall be brought to the said commissioners to be stamped within twelve months after the making or execution thereof, it shall be lawful for such commissioners of his majesty's stamp duties to remit the penalty payable on stamping such instrument, matter, or thing, or any part thereof, as they shall deem expedient, and every person concerned in engrossing, printing, or writing any such instrument, matter, or thing, or in making or executing the same, shall be and he or she is hereby freed, discharged, and indemnified from all further penalties or forfeitures than such penalties or forfeitures, or such parts thereof, as shall not be remitted by order of the said commissioners of his majesty's stamp duties: provided always, that nothing herein contained shall extend, or be construed to extend, to prevent the said commissioners from stamping any receipts allowed to be stamped, after the same shall have been written and signed under such and the like circumstances, restrictions, and regulations as such receipts may now be stamped: provided also, that it shall be lawful for the said commissioners, and they are hereby authorized, to make all such payments and allowances as are by any act or acts now in force, in relation to the duties on vellum, parchment, or paper, or any of those heretofore directed to be made, paid, and allowed by the said commissioners, and are not by this act, or the schedule hereto annexed, varied, altered, or expressly repealed; any thing in this act contained to the contrary notwithstanding."

By the 46 Geo. III. c. 43, "there shall be paid throughout Great Britain, unto and for the use of his majesty, his heirs, and successors, for and upon every skin or piece of vellum or parchment, or sheet or piece of paper upon which any valuation or appraisement, or the amount of any valuation or appraisement of any estate, property, or effects, real or personal, or of any interest in possession or reversion, remainder or contingency, in any estate or property real or personal, shall be written or set down in figures, where the amount of such valuation or appraisement shall not exceed 50*l.*, a stamp duty of 2*s.* 6*d.*; and where the same shall exceed 50*l.* and not exceed 100*l.*, a stamp duty of 5*s.*; and where the same shall exceed 100*l.* and not exceed 200*l.*, a stamp duty of 10*s.*; and where the same shall exceed 200*l.* and not exceed 500*l.*, a stamp duty of 15*s.*; and where the same shall exceed 500*l.*, a stamp duty of 20*s.*; and upon every piece of vellum or parchment, or sheet or piece of paper, whereon any licence of any appraiser shall be written or printed, a stamp duty of 6*s.*"

Sect. 2. The said duties shall be under the management of the commissioners of stamps.

Sect. 3. The powers of former acts relating to stamp duties are extended to this act.

Sect. 4. "That every person who shall value or appraise any estate or property, real or personal, or any interest in possession or reversion, remainder or contingency in any estate or property, real or personal, or any goods, merchandize, or effects, of whatsoever kind or description the same may be, for or in expectation of any hire, gain, fee, or reward, or valuable consideration

to be therefore paid him, shall be deemed and taken to be an appraiser within the provisions of this act, to all intents and purposes."

Sect. 5. "That no person shall exercise the calling or occupation of an appraiser, or act as such within the intent and meaning of this act, without taking out a licence in manner hereinafter mentioned; and every such licence shall state the true name and place of abode of the person taking out the same, and it shall be lawful for any two or more of his majesty's commissioners appointed for managing the duties arising by stamps on vellum, parchment, and paper, or for any person duly authorized by such commissioners, or the major part of them, to grant such licences, and every such licence issued between the 5th day of July and the 5th day of August in any year shall bear date on the 6th day of July; and every such licence, issued at any other time, shall bear date the day on which the same shall be issued; and every such licence shall continue in force from the day of the date thereof until the 5th day of July then next following."

Sect. 6. "That no person shall appraise or value any estate or property or effects, real or personal, or any interest in possession or reversion, remainder or expectancy, in any estate or property, real or personal, for or in expectation of hire or reward, without being so licensed as aforesaid, on pain of forfeiting for every such offence the sum of 50*l*."

Sect. 7. "That all persons who shall be duly licensed according to law to act as auctioneers shall and may act as appraisers, without taking out any other licence in pursuance of this act, any thing in this act contained to the contrary notwithstanding."

Sect. 8. "That every appraiser shall write or set down in words or figures every valuation or appraisement made by him or any person for him, and the full amount thereof, and within fourteen days after the making thereof deliver the same to his employer, so written or set down upon vellum, parchment, or paper, duly stamped according to the provisions of this act, on pain of forfeiting for any neglect therein, or for delivering any valuation or appraisement, or the amount of any valuation or appraisement, on any vellum, parchment, or paper, not duly stamped as aforesaid, the sum of 50*l*."

Sect. 9. "That no person who shall employ any appraiser to make any appraisement or valuation as aforesaid, shall receive, or take or pay, or make any compensation for the making of any such appraisement or valuation as aforesaid, unless the same shall be written or set down in words or figures upon vellum, parchment, or paper duly stamped according to the provisions of this act, on pain of forfeiting for every such offence the sum of 20*l*."

Sect. 10. "That nothing in this act contained shall extend or be construed to require any stamp upon any piece of vellum, parchment, or paper whereon shall be written or set down any valuation or appraisement extending to more than one piece of vellum, parchment, or paper, other than and except the piece upon which the aggregate amount of the value of the articles contained in such valuation or appraisement shall be written or set down."

Sect. 11. "That nothing herein contained shall extend to charge with any stamp duty any vellum, parchment, or paper upon which any valuation or appraisement made in pursuance of any order of any court of admiralty, vice-admiralty, or any court of appeal from any sentence, adjudication, or judgment of such court, shall be written or set down."

Sect. 12. The duties are to be carried to the consolidated fund.

Sect. 13. Separate accounts of duties shall be kept and annually laid before Parliament, and the amount applied to the charge of any loan of this session.

By the 48 Geo. III. c. 149, s. 22, "in all cases of the sale of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claim, into, out of, or upon any lands, tenements, rents, annuities, or other property where a duty is imposed on the conveyance thereof, in the schedule hereunto annexed, in proportion to the amount of the purchase or consideration money therein or thereupon expressed, the full purchase or consideration money, which shall be directly or indirectly paid or secured, or agreed to be paid or * the same, shall be

Stamps.

46 Geo. 3, c. 43.

Appraisers shall take out annual licences from 5th July, to be granted by commissioners of stamps, &c.

Penalty on unlicensed persons appraising.

Auctioneers duly licensed may act as appraisers, without licence.

Appraisers shall write appraisement on paper duly stamped.

Persons shall not receive appraisements unless duly stamped.

Appraisements extending to more than one piece of one stamp.

Exemption for appraisements under order of admiralty.

48 Geo. 3. c. 149.

On sale of any property, real or personal, the purchase-money or consideration shall be fully and truly set forth in the conveyance, &c.

* Sic.

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44 Geo. 3, c. 149.

Penalty on purchasers and sellers for default in setting forth consideration, quintuple duty.

Parties liable to such penalties informing against others, shall be indemnified and rewarded.

Where the consideration shall not be truly set forth, purchaser may recover back so much thereof as shall not be stated.

Penalties on attorneys, &c., for not inserting the true consideration in any conveyance, &c., 500*l.* and incapacity.

truly expressed and set forth in words at length, in or upon the principal or only deed or instrument, whereby the land or other thing sold shall be granted, assigned, transferred, released, renounced, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction; and also where upon the sale of any annuity, easement, servitude, or other right not before in existence, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or other security, the full purchase or consideration money which shall be directly or indirectly paid or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length, in or upon the bond or other instrument or instruments by which the same shall be secured; and if, in any of the said cases, the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, the purchaser or purchasers and also the seller or sellers shall forfeit the sum of 50*l.*, and shall also be charged and chargeable with, and be holden liable to the payment of five times the amount of the excess of duty which would have been payable for such deed, bond, or other instrument as aforesaid in respect of the full purchase or consideration money, in case the same had been truly expressed and set forth in or upon the same, pursuant to the directions of this act, and the schedule hereunto annexed, beyond the amount of the duty actually paid for the same; which quintuple duty shall be deemed and taken to be a debt to his majesty, his heirs, and successors, of the party or parties respectively hereby made liable to pay the same, and shall and may be sued for and recovered accordingly."

Sect. 23. "If any or either of the parties hereby made liable to the payment of such penalty and quintuple duty, as aforesaid, shall give information to the commissioners of stamps, whereby such penalty or quintuple duty or any part thereof shall be recovered from any other party or parties liable thereto, the party or parties giving the information shall not only be indemnified and discharged of such his, her, or their liability, but shall also be rewarded by the commissioners of stamps out of the penalty or quintuple duty so recovered, to such extent as the said commissioners, or the major part of them, shall think proper, but not exceeding one-half of what shall be so recovered; and where any other person shall give information whereby any such penalty or quintuple duty shall be recovered, he or she shall be rewarded in the like manner."

Sect. 24. "Where the full purchase or consideration money shall not be truly expressed and set forth, in the manner hereby directed, it shall be lawful for the purchaser or purchasers, or any of them, or his, her, or their executors or administrators, to recover back from the seller or sellers, or his, her, or their executors or administrators, so much and such part of the purchase or consideration money as shall not be expressed and set forth as aforesaid, or the whole thereof, if no part of the same shall be so expressed and set forth, either in an action for money had and received for the use of the party or parties suing for the same, or by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, wherein no essoin, protection, wager of law, or more than one imparlance shall be allowed, or by ordinary action or summary complaint in the court of session, or in the sheriff or steward court of the shire or stewarty where the person or persons sued or complained of shall reside in Scotland, as the case may require, together with double costs of suit."

Sect. 25. "If any attorney, solicitor, writer to the signet, or other person who shall be employed in or about the preparing of any such deed, bond, or other instrument in or upon which the full purchase or consideration money is hereby required to be truly expressed and set forth as aforesaid, or who shall be employed for any of the parties thereto, in anywise, about or relating to the transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon any such deed, bond, or other instrument, any other than the full and true purchase or consideration money directly or indirectly paid or secured, or agreed to be paid for the same, or shall in anywise aid or assist in the doing thereof respectively,

every such attorney, solicitor, writer to the signet, or other person so offending, shall for every such offence forfeit the sum of 500*l.*; and every attorney, solicitor, and writer to the signet so offending, and being thereof lawfully convicted, shall also be from thenceforth disabled to practise as an attorney, solicitor, or writer to the signet, and any other person being entitled or intrusted to prepare any such deed or other instrument in virtue of any public office or employment, and being guilty of such offence in the execution of his office or employment, and being thereof lawfully convicted, shall also forfeit and lose his office or employment, and be from thenceforth incapable of holding the same."

Sect. 26. "No party, attorney, solicitor, writer to the signet, or other person whosoever shall be liable to any penalty, disability, or forfeiture whatsoever by reason of the full purchase or consideration money not being truly expressed and set forth in or upon any such deed, bond, or other instrument as aforesaid, unless the duty or duties actually paid for the same shall be less than would have been payable for the same, in case the full purchase or consideration money had been truly expressed and set forth according to the directions of this act."

No penalty unless the duty paid be less than the duty payable.

Sect. 27. "Where, upon the sale of any estate of inheritance or freehold in any lands or hereditaments in England, the same shall be conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, it shall be lawful for the said commissioners of stamps, and they are hereby required, on the production of both conveyances, and on proof to their satisfaction that the full purchase or consideration money is truly expressed and set forth therein, in the manner hereby directed, and on its appearing that the release or feoffment is stamped with the *ad valorem* duty hereby charged thereon, and that the bargain and sale is stamped with the ordinary duty hereby charged thereon, to cause the deed of bargain and sale to be also stamped with some particular stamp for testifying the payment of the said *ad valorem* duty on the release or feoffment, and also where upon the sale of any such estate of inheritance or freehold, the same shall be conveyed by lease and release, and also by feoffment, it shall be lawful for the said commissioners, and they are hereby required, on the production of both conveyances and on proof to their satisfaction that the full purchase or consideration money is truly expressed and set forth therein in the manner hereby directed, and on its appearing that the release is stamped with the *ad valorem* duty hereby charged thereon, and that the feoffment is stamped with the ordinary duty hereby charged thereon, to cause the feoffment to be also stamped with some particular stamp for testifying the payment of the said *ad valorem* duty on the release, and thereupon the bargain and sale in the former case, and the feoffment in the latter case, shall be as available in law, and of the like force and effect in all respects as if the same had been stamped with the *ad valorem* duty itself, but until the same shall be so stamped as aforesaid, the same shall not be given in evidence or be available in any manner whatsoever."

Where lands are conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, the former shall be specially stamped, to testify payment of the *ad valorem* duty on the latter.

Sect. 28. "If any officer of any of his majesty's courts at Westminster, or any clerk of the peace, or other person intrusted to enrol deeds of bargain and sale of estates of freehold in England, shall enrol any deed of bargain and sale, made after the 10th day of October, 1808, whereby any freehold lands or hereditaments shall be conveyed to any purchaser or purchasers, or other person or persons, by his, her, or their direction, unless such deed of bargain and sale shall appear to be stamped with the proper *ad valorem* duty hereby charged on conveyances upon the sale of lands, or other property, according to the amount of the purchase or consideration money therein expressed, or with such particular stamp as aforesaid, for testifying the payment of the said *ad valorem* duty on a deed of release or feoffment of the same lands or hereditaments, every such officer or clerk of the peace, or other person so offending, shall for every such offence forfeit and pay the sum of 50*l.*"

Penalty on officers enrolling deeds of bargain and sale not duly stamped, 50*l.*

Sect. 29. Conveyances of property, contracted to be sold before the 12th

Stamps.

44 Geo. 3, c. 149.

On surrendering copyhold lands in court, the consideration of sale shall be stated, &c.

Penalty on neglect: steward, 50*l.*, seller, 100*l.*

Penalty for enrolling surrenders out of court, or bargains and sales of copyholds, &c., not duly stamped, 50*l.*

Penalty on taking surrenders, or granting admissions, &c., out of court, not duly stamped.

Penalty on stewards of manors neglecting to make out and deliver copies of court roll within four months, duly stamped, 50*l.*

of April, 1808, are exempted from the *ad valorem* duty, though executed after the 10th of October, 1808.

Sect. 30. "Where any copyhold or customary lands or hereditaments shall be proposed to be surrendered in court, the person or persons proposing to surrender the same shall deliver to the steward of the manor or honour, whereof such lands or hereditaments shall be holden, a note in writing, stating whether the surrender proposed is upon a sale, or not upon a sale, and in the former case specifying the amount of the purchase or consideration money agreed upon for such lands or hereditaments, to the intent that the same may be inserted and set forth in words at length, in or upon the copy of court roll, to be afterwards made out of such surrender, pursuant to the directions of this act, and until such note in writing shall be delivered, the lord or lady, or steward of the manor or honour, shall not accept or take the proposed surrender, on pain of forfeiting for every such offence the sum of 50*l.*; and where the proposed surrender shall be upon a sale, if the steward shall neglect to insert the said purchase or consideration money, in or upon the copy of court roll to be afterwards made out of such surrender, in words at length, he shall for every such offence forfeit the sum of 50*l.*; and if upon the sale of any such lands or hereditaments, any person or persons shall in the note so to be delivered as aforesaid, state the proposed surrender to be not upon a sale, he, she, or they shall for every such offence forfeit the sum of 100*l.*"

Sect. 31. "Where any copyhold or customary lands or hereditaments shall be intended to be conveyed to any person or persons (either upon the sale or mortgage thereof or otherwise), by means of a surrender made out of court, or by a deed of bargain and sale, or other deed by commissioners named in a commission of bankrupt, or by executors or others, by virtue of a power given by will or by act of Parliament, the lord or lady, or steward of the manor or honour whereof such lands or hereditaments shall be parcel or be holden, shall not enrol any such surrender or deed, or accept any presentment thereof, or admit any person to be tenant of such lands or hereditaments under or by virtue of the same respectively, unless such deed or surrender, or the memorandum of such surrender, shall be duly stamped with the duty hereby charged thereon respectively, on pain of forfeiting for every such offence the sum of 50*l.*"

Sect. 32. "If any lord or lady, or steward of any manor or honour, shall accept or take any surrender, or admit any person tenant of any copyhold or customary lands or hereditaments out of court, or make any voluntary grant of any such lands or hereditaments out of court, or grant any licence to demise any such lands or hereditaments out of court, without causing the same or some memorandum thereof respectively to be put in writing on vellum, parchment, or paper duly stamped with the proper duty hereby charged thereon respectively, then and in every such case he or she shall for every such offence forfeit the sum of 50*l.*"

Sect. 33. "In all cases of surrenders, admittances, and voluntary grants of or to any copyhold or customary lands or hereditaments, and in all cases of licences to demise any such lands or hereditaments, which shall be taken, made, or granted in court, the steward of the manor or honour whereof such lands or tenements shall be parcel or be holden, shall make out a copy of court roll of every such surrender, admittance, voluntary grant, and licence to demise, on vellum, parchment, or paper, duly stamped according to the directions of this act, within four calendar months next after the surrender, admittance, voluntary grant, or licence shall be made or granted, and shall deliver the same to the party or parties entitled thereto, or any other person authorized to receive the same, whenever the same shall be called for, after the expiration of such four calendar months, and if the same shall not be called for, then the steward shall deliver the same to the bailiff of the manor or honour, or to the crier of the court, or to some copyhold or customary tenant of the manor or honour for the use of the party or parties entitled thereto, at the next general court to be holden for the said manor or honour, and if any such steward shall neglect to make out and deliver such copy or

copies of court roll in the manner and within the time aforesaid, he shall forfeit the sum of 50*l.* for every such surrender, admittance, voluntary grant, and licence to demise, of which he shall neglect to make out and deliver a copy of court roll in the manner and within the time aforesaid; and the stamp duty payable in respect of every such copy of court roll shall be a debt to his majesty, his heirs, and successors, of the steward so neglecting to make out and deliver the same, whether he shall have received the duty or not; and if he shall not have received the duty, the same shall also be a debt to his majesty, his heirs, and successors, of the party or parties entitled to such copy of court roll; and the said steward shall also be bound to make out and deliver such copy of court roll to the party or parties entitled thereto, whenever afterwards the same shall be demanded, without being paid any fees for the same; and if any fees shall have been previously paid to him for the same, such fees shall be deemed to have been paid without consideration, and the party or parties who paid such fees, his, her, or their executors or administrators shall be entitled to recover back the same in an action for money had and received to his, her, or their use, with full costs of suit."

Stamp duty a debt to the king.

Fees.

Sect. 34. "That it shall be lawful for the steward of any manor or honour, previously to the acceptance of any surrender or the granting or making of any admittance, voluntary grant, or licence, to demise in court from and after the 10th day of October, 1808, to demand and insist on the payment of his lawful fees for the same, and for the copy of court roll to be made out thereof, together with the stamp duty payable on such copy of court roll; and in case of nonpayment of such fees and stamp duty, it shall be lawful for the lord or lady, or steward of the manor, to refuse to accept the surrender, or to grant the admittance or licence, or to make the voluntary grant which shall be proposed or have been contracted for, until such fees and stamp duties shall be paid."

Stewards of manors may insist on payment of fees and the stamp duty before accepting surrenders.

By the 55 Geo. III. c. 184, several pre-existing duties are repealed.

55 Geo. 3. c. 184.

By sect. 2, the duties specified in schedule annexed are to be levied.

By sect. 3, the duties are to be under the management of commissioners of stamps, who are to provide stamps, &c.

By sect. 4, old stamps may be used to denote new duties; and two or more stamps to denote one duty, till single stamp provided. Stamps bearing the name of any instrument, not to be used for any other.

By sect. 5, paper, &c., stamped with former duties may be used for instruments charged with new duties of same amount, except stamps bearing the name of the instrument.

By sect. 6, stamped paper, &c., rendered useless by this act, may be exchanged, or have additional stamps.

Sect. 7. "That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made, or used, in pursuance of this act, or in pursuance of any former act or acts, relating to any stamp duty or duties, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression of any such stamp or die as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die, as aforesaid, with intent to defraud his majesty, his heirs, or successors, of any of the duties hereby granted, or any part thereof; or if any person shall utter or sell, or expose to

Forgery of stamps, &c., felony. (a)

(a) The offence of uttering a forged stamp will be complete, although at the time of the uttering certain parts of the stamp are concealed, all the parts that were visible being like a genuine stamp, though the part concealed was unlike a

genuine stamp. (*R. v. Collicott, Russ. & Ry. C. C. R.* 212. Nor is it essential to the offence that the forged stamp should profess to state the amount of the duty. (*Id.*)

Stamps.

55 Geo. 3, c. 184.

Death.

sale, any vellum, parchment, or paper, having thereupon the impression of any such forged or counterfeited stamp or die, or part of any stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited or resembled; or if any person shall privately and secretly use any stamp or die which shall have been so provided, made, or used as aforesaid, with intent to defraud his majesty, his heirs, or successors, of any of the said duties or any part thereof; or if any person shall fraudulently cut, tear, or get off, or cause or procure to be cut, torn, or got off, the impression of any stamp or die which shall have been provided, made, or used in pursuance of this or any former act, for expressing or denoting any duty or duties under the care and management of the commissioners of stamps, or any part of such duty or duties, from any vellum, parchment, or paper whatsoever, with intent to use the same for or upon any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the duties hereby granted; then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons in committing any such offence as aforesaid, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy (a).” But now, by the 1 Wil. IV. c. 66, the punishment of death for this offence is abolished, and the offender is to be transported or imprisoned. See “*Forgery*,” Vol. II.

By sect. 8, the powers and provisions of former acts are to extend to this act.

By sect. 9, the provisions of former acts respecting agreements are to be applied only to those charged with 1*l*.

By sect. 10, instruments having wrong stamps, but of sufficient value, to be valid. Exception, where the stamp on face of it appropriated to a different description of instrument.

By sect. 11, a penalty of 50*l*. is imposed for making, accepting, or paying bills of exchange, &c., not duly stamped.

By sect. 12, a penalty of 100*l*. is imposed for post-dating bills of exchange, &c.

By sect. 13, a penalty of 100*l*. is imposed for issuing unstamped drafts on bankers, without specifying the place where issued, or if post-dated. For receiving such drafts 20*l*.; and on bankers for paying them, 100*l*., &c.

By sect. 14, promissory notes to bearer on demand, not exceeding 100*l*., may be re-issued by the original makers, without further duty.

By sect. 15, such notes are not liable to further duty, though re-issued by certain persons not strictly the original makers.

By sect. 16, notes re-issuable under the 48 or 53 Geo. III. to continue re-issuable till end of three years from the date. Penalty on frauds, 50*l*.

By sect. 18, a penalty of 50*l*. is imposed on issuing notes in future with printed dates.

By sect. 19, notes re-issuable for a limited period are to be cancelled on payment afterwards; and notes not re-issuable are to be cancelled immediately on payment. A penalty of 50*l*. is imposed for re-issuing notes, &c., contrary to law, and for not cancelling them; and for taking notes, &c., re-issued contrary to law, a 20*l*. penalty is imposed.

By sect. 29, promissory notes made out of Great Britain are not to be negotiable, unless stamped, under a penalty, on circulating such notes, &c., of 20*l*. for each.

Sect. 37. “If any person shall take possession of, and in any manner administer, any part of the personal estate and effects of any person deceased, without obtaining probate of the will or letters of administration of the estate and effects of the deceased, within six calendar months after his or her decease, or within two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration, if

Penalty for not proving wills, or taking letters of administration, within a given time, 100*l*., and 10 per cent. on the duty.

(a) See note (a) in preceding page.

there shall be any such, which shall not be ended within four calendar months after the death of the deceased; every person so offending shall forfeit the sum of 100*l.*, and also a further sum, at and after the rate of 10*l.* *per centum* on the amount of the stamp duty payable on the probate of the will or letters of administration of the estate and effects of the deceased." See the schedule, Part III., exempting the wills, &c., of soldiers and sailors.

Stamps.

55 Geo. 3, c. 184.

Sect. 38. "No ecclesiastical court or person shall grant probate of the will or letters of administration of the estate and effects of any person deceased, without first requiring and receiving from the person or persons applying for the probate or letters of administration, or from some other competent person or persons, an affidavit, or solemn affirmation in the case of Quakers, that the estate and effects of the deceased, for or in respect of which the probate or letters of administration is or are to be granted, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, but including the leasehold estates for years of the deceased, whether absolute or determinable on lives, if any, and without deducting any thing on account of the debts due and owing from the deceased, are under the value of a certain sum to be therein specified, to the best of the deponent's or affirmant's knowledge, information, and belief, in order that the proper and full stamp duty may be paid on such probate or letters of administration; which affidavit or affirmation shall be made before the surrogate or other person, who shall administer the usual oath for the due administration of the estate and effects of the deceased."

Ecclesiastical courts not to grant probates or letters of administration without affidavit of the value of effects.

Sect. 39. "Every such affidavit or affirmation shall be exempt from stamp duty, and shall be transmitted to the said commissioners of stamps, together with the copy of the will, or extract, or account of the letters of administration to which it shall relate, by the registrar or other officer of the court, whose duty it shall be to transmit copies of wills, and extracts or accounts of letters of administration, to the said commissioners, for the better collection of the duties on legacies and successions to personal estate upon intestacy; and if any registrar, or other officer whose duty it shall be, shall neglect to transmit such affidavit or affirmation to the said commissioners of stamps as hereby directed, every person so offending shall forfeit the sum of 50*l.*"

Affidavits to be free of stamp duty, and to be transmitted to commissioners of stamps.

Penalty for neglect, 50*l.*

Sect. 40. "Where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of greater value than the same shall have afterwards proved to be, and shall in consequence have paid too high a stamp duty thereon, if such person shall produce the probate or letters of administration to the said commissioners of stamps within six calendar months after the true value of the estate and effects shall have been ascertained, and it shall be discovered that too high a duty was first paid on the probate or letters of administration, and shall deliver to them a particular inventory and account, and valuation of the estate and effects of the deceased, verified by an affidavit, or solemn affirmation in the case of Quakers; and if it should thereupon satisfactorily appear to the said commissioners that a greater stamp duty was paid on the probate or letters of administration than the law required, it shall be lawful for the said commissioners to cancel and expunge the stamp on the probate or letters of administration, and to substitute another stamp for denoting the duty which ought to have been paid thereon, and to make an allowance for the difference between them, as in the cases of spoiled stamps, or if the difference be considerable, to repay the same in money, at the discretion of the said commissioners."

Provision for the case of too high a stamp duty being paid on probates, &c.

Sect. 41. "Where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of less value than the same shall have afterwards proved to be, and shall in consequence have paid too little stamp duty thereon, it shall be lawful for the said commissioners of stamps, on delivery to them of an affidavit or solemn affirmation of the value of the estate and effects of the deceased, to cause the probate or letters of administration to be duly stamped,

Provision for the case of too little stamp duty being paid on probates, &c.

Stamps.

55 Geo. 3, c. 184.

Administrator to give the proper security before administration is duly stamped.

Penalty on executors, &c., not paying the full duty on probates, &c., in a given time after discovery of too little paid at first, 100*l.*, and 10*l.* per cent. on the duty wanting.

Ecclesiastical courts not to take surrenders of probates, &c., on the ground only of wrong duty paid thereon.

on payment of the full duty which ought to have been originally paid thereon in respect of such value, and of the further sum or penalty payable by law for stamping deeds after the execution thereof, without any deduction or allowance of the stamp duty originally paid on such probate or letters of administration : provided always, that if the application shall be made within six calendar months after the true value of the estate and effects shall be ascertained, and it shall be discovered that too little duty was at first paid on the probate or letters of administration, and if it shall appear by affidavit or solemn affirmation, to the satisfaction of the said commissioners, that such duty was paid in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, and without any intention of fraud, or to delay the payment of the full and proper duty, then it shall be lawful for the said commissioners to remit the before-mentioned penalty, and to cause the probate or letters of administration to be duly stamped, on payment only of the sum which shall be wanting to make up the duty which ought to have been first paid thereon."

Sect. 42. " Provided always, that in cases of letters of administration, on which too little stamp duty shall have been paid at first, the said commissioners of stamps shall not cause the same to be duly stamped in the manner aforesaid, until the administrator shall have given such security to the ecclesiastical court or ordinary, by whom the letters of administration shall have been granted, as ought by law to have been given on the granting thereof, in case the full value of the estate and effects of the deceased had been then ascertained ; and also that the said commissioners of stamps shall yearly or oftener transmit an account of the probates and letters of administration, upon which the stamps shall have been rectified, in pursuance of this act, to the several ecclesiastical courts by which the same shall have been granted, together with the value of the estate and effects of the deceased, upon which such rectification shall have proceeded."

Sect. 43. " Where too little duty shall have been paid on any probate or letters of administration, in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, if any executor or administrator acting under such probate or letters of administration shall not, within six calendar months after the passing of this act (11th July, 1815), or after the discovery of the mistake or misapprehension, or of any estate or effects not known at the time to have belonged to the deceased, apply to the said commissioners of stamps, and pay what shall be wanting to make up the duty which ought to have been paid at first on such probate or letters of administration, he or she shall forfeit the sum of 100*l.*, and also a further sum at and after the rate of 10*l.* *per centum* on the amount of the sum wanting to make up the proper duty."

Sect. 44. " From and after the expiration of three calendar months from the passing of this act (11th July, 1815), it shall not be lawful for any ecclesiastical court or person to call in and revoke or to accept the surrender of any probate or letters of administration, on the ground only of too high or too low a stamp duty having been paid thereon, as heretofore hath been practised ; and if any ecclesiastical court or person shall so do, the commissioners of stamps shall not make any allowance whatever for the stamp duty on the probate or letters of administration which shall be so annulled."

By sect. 45, the commissioners of stamps may give credit for the duty on probates and letters of administration in certain cases.

By sect. 46, the commissioners may extend the credit, if necessary.

By sect. 47, the probate or letters of administration stamped on credit are to be deposited with the commissioners.

By sect. 48, the duty for which credit shall be given is to be a debt to the crown.

By sect. 49, provision is made for the case of letters of administration, *de bonis non*, taken out before payment of the duty, for which credit shall be given.

By sect. 50, directions are made concerning affidavits by executors, &c., residing out of England, relating to trust property.

By sect. 51, a return of the duty on probates, &c., is to be made in respect of debts, if claimed in three years. 55 Geo. 3, c. 184.

By sect. 52, affidavits relating to stamp duties, if no express provision to the contrary, are to be made before commissioners, &c. See the 3 & 4 Wil. IV. c. 97, s. 22, *ante*, 778.

Sect. 53. "All and every person and persons before whom any affidavit or solemn affirmation is or shall be required or directed to be made by this or any former or future act of Parliament relating to any stamp duties, shall be and they are hereby authorized to take the same, and administer the proper oath or affirmation for that purpose; and if any person making any such affidavit or affirmation shall knowingly and wilfully make a false oath or affirmation of or concerning any of the matters to be therein specified and set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable to." See, *ante*, "Perjury." Penalty for perjury.

The 55 Geo. III. c. 184, then gives a schedule, pointing out the various duties to be paid on instruments. See the same, *post*, p. 800.

By the 1 & 2 Geo. IV. c. 55, stamp duties on deeds relating to property in Ireland or in Great Britain respectively are to be charged with the duties chargeable on the property in those places wherever the deed is executed, and though it contain a general covenant to pay, &c.

Sect. 2 provides as to charging stamp duty on bonds and covenants for payment of money, and contains proviso as to description of residence of obligor, &c., in such bond or covenant.

By the 5 Geo. IV. c. 41, it is enacted, that from the 10th day of October, 1824, duties mentioned in the schedule annexed thereto shall cease, as also duties on bonds on commissioners of bankrupt, on bonds on replevy of goods, and also on copy of wills or power of attorney deposited in any ecclesiastical court (a). 5 Geo. 4, c. 41. Law proceedings.

Sect. 3. "And whereas it is expedient to make provision for the better protecting the duties payable to his majesty, his heirs and successors, upon stamped vellum, parchment, and paper;" it is enacted, "that in any suit, prosecution, or proceeding to be brought against any person or persons, or body politic or corporate, for the taking or retaining, or for the losing, damaging, or destroying of any vellum, parchment, or paper upon which any stamp or stamped mark or marks denoting any duty or duties imposed by law hath been impressed or put, or for any other cause of action or proceeding relating to the same respectively, such suit, prosecution, or proceeding shall and may be commenced, instituted, and proceeded in in the name of his majesty, his heirs and successors, or in the name of the attorney or solicitor general in England or Ireland, or of the advocate or solicitor general in Scotland, respectively for the time being, for and on behalf of his said majesty, his heirs and successors; and that, in all such suits, prosecutions, or proceedings, the property in all such vellum, parchment, or paper so stamped, marked, and impressed, as aforesaid, shall be described to be, and shall be deemed and taken to be in his majesty, his heirs and successors; and that the value of the same respectively shall be deemed and taken to be the amount of the value of the vellum, parchment, and paper, and of the stamp duty or stamp duties denoted by the stamp or stamps, mark or marks so impressed and put upon the same respectively; and further, that in every prosecution for embezzling or stealing such vellum, parchment, or paper, so stamped, marked, and impressed as aforesaid, or for any other offence for or relating to the same respectively, it shall be sufficient, in the indictment or information, to state and describe the property in the same to be in his

How suits for the protection of stamp duties may be brought.

What considered different description of property in indictment.

(a) This act repeals all the duties in schedule, part 2, of 55 Geo. III. c. 184.

Stamps.

majesty, his heirs and successors, which property shall be deemed and taken to be vested in his majesty, his heirs and successors, accordingly.
Then follow the schedules specifying the repealed duties.

6 Geo. 4, c. 41.

Stamp duties on
bills of sale, &c.,
of vessels to cease.

By 6 Geo. IV. c. 41, s. 1, all stamp duties now payable in Great Britain and Ireland respectively, upon or in respect of any bill of sale or any conveyance, assignment, or other deed or instrument whatever, for the sale, transfer, or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share, or property of or in any ship or vessel, shall wholly cease, determine, and no longer be paid or payable, any thing in any act or acts of Parliament contained to the contrary thereof in anywise notwithstanding.

By sect. 2, stamp duties on bonds given under direction of commissioners of customs or excise, and on debentures or certificates for receiving drawbacks or bounties, are to cease. Duties to be paid on bonds, and on debentures or certificates. Exceptions thereto are introduced.

By sect. 3 the duties are to be under commissioners of stamps.

Agent unduly in-
cluding in same
bond goods of
different persons.

Sect. 4. "That if any agent, or any other person who shall be required by any act of Parliament, or by the direction of the commissioners of customs or excise, or any of their officers, to give or enter into any bond for or in respect of any duties of customs or excise, or for preventing frauds or evasions thereof, or for any matter or thing relating thereto, shall include in one and the same bond any goods or things *bonâ fide* belonging to more persons than one, not being copartners, or joint tenants, or tenants in common, every such agent or other person shall, for every such offence, forfeit and pay the sum of 50*l*."

Penalty.

By sect. 5 the powers of former acts relating to stamps are to extend to this act.

9 Geo. 4, c. 13.

9 Geo. 4, c. 23.

The 9 Geo. IV. c. 13, regulates the duties on insurances against fire.

The 9 Geo. IV. c. 23, is an act to enable bankers in England to issue certain unstamped promissory notes and bills of exchange, upon payment of a composition in lieu of the stamp duties thereon.

9 Geo. 4, c. 27.

By the 9 Geo. IV. c. 27, from the 5th day of July, 1828, the allowances granted by the 44 Geo. III. c. 93, on the purchase of stamps for receipts, are repealed, and a new allowance is to be made in lieu thereof.

By sect. 2 the commissioners are to issue stamps for receipts without any charge for paper.

By sect. 3 the commissioners are authorized to grant the allowance on stamping special forms of receipts.

Penalty on ven-
dors of receipt-
stamps charging
for the paper, 10*l*.

Sect. 4. "And whereas it is highly improper that any vendor of stamps for receipts should, upon the sale thereof, make any charge for the paper upon which such stamps are impressed, seeing that such paper is by this act directed to be supplied *gratis* by the commissioners of stamps;" it is enacted, "that if any person or persons, upon the sale of any stamp or stamps for a receipt or receipts, shall make any charge to the purchaser of such stamp or stamps for the paper whereon the same shall be impressed, or shall, under any colour or pretence whatever, demand or receive a greater price or sum than the amount of the stamp duty denoted by such stamp or stamps, every such person so offending shall, for every such offence, forfeit and pay the sum of 10*l*., to be sued for and recovered, levied and applied, in such and the same manner as any penalties under any other act or acts relating to stamp duties may be sued for, recovered, levied, and applied."

Not to prevent
any charge for
books of receipt-
stamps, or for
vellum or parch-
ment.

Sect. 5. "That nothing in this act contained shall extend or be construed to extend to prevent any person or persons from making any charge for any bound book containing stamps for receipts, or for any folio sheet of paper containing not more than one stamp, or for any skin or piece of vellum or parchment whereon any such stamp or stamps may be impressed, nor to inflict any penalty or penalties by reason of the making of any such charge as aforesaid."

Persons relieved
from all pecuniary

Sect. 6. "And whereas many tradesmen, shopkeepers, and other persons have, through ignorance of the law, or inadvertence, written receipts upon

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paper not duly stamped as the law requires, whereby they have unwittingly incurred divers pecuniary penalties; and it is expedient to relieve all persons from such pecuniary penalties as have been so incurred before the passing of this act; it is enacted, "that all and every person or persons who may have written or signed, or caused to be written or signed, upon vellum, parchment, or paper not duly stamped as the law requires, any receipt, discharge, or acquittance, for or upon the payment of money, shall be and is and are hereby relieved and indemnified from and against all pecuniary forfeitures and penalties incurred by reason of any such offence as aforesaid, committed at any time or times before the passing of this act; and that all actions, informations, prosecutions, and proceedings whatsoever, which have been commenced, filed, or prosecuted, and are now pending, or which shall or may hereafter be commenced, filed, or prosecuted, against any person or persons, for the recovery of any such pecuniary forfeiture or penalty as aforesaid, incurred before the passing of this act, shall be and the same are hereby discharged and made void."

9 Geo. 4, c. 27.
penalties incurred by giving unstamped receipts prior to the passing of this act.

The 9 Geo. IV. c. 49, is an act to amend the laws in force relating to the stamp duties on sea insurances, on articles of clerkship, on certificates of writers to the signet, and of conveyancers and others, on licences to dealers in gold and silver plate, and pawnbrokers, on drafts on bankers, and on licences for stage-coaches in Great Britain; and on receipts in Ireland.

9 Geo. 4, c. 49.

By sect. 16, so much of 50 Geo. III. c. 48, as directs the names of proprietors of stage-coaches to be painted on the doors thereof, is repealed; but nothing therein contained is to repeal or alter any part of 25 Geo. III. c. 51, as to names of licensed persons being painted on the doors of coaches, &c.

Sect. 17 repeals so much of 7 Geo. IV. c. 33, as permits informations to be laid by any persons as to stage-coaches. (See, *ante*, "Stage Coaches.")

Sect. 18. "From and after the passing of this act, in all cases where any information shall have been laid or shall be laid before any justice or justices of the peace in Great Britain, by any person other than the solicitor of stamps in England or Scotland, or some officer of the stamp duties, for the recovery of any fine, penalty, or forfeiture made or incurred by virtue of any act or acts relating to any duties under the management of the commissioners of stamps, it shall be lawful for the person or persons against whom such information shall have been or shall be laid to apply to the justice or justices of the peace before whom the information shall have been laid, or to the justices of the peace at the general quarter sessions to which any appeal shall have been or shall be duly made from any conviction obtained or made on any such information, or laid by any person other than as aforesaid, to quash such information or conviction upon payment by the defendant of such costs and charges as to such justice or justices shall seem reasonable; and it shall be lawful for such justice or justices, if they shall think fit so to do, and such justice or justices are hereby authorized and empowered, upon such application, to quash such information or conviction accordingly."

Justices may quash informations laid by any other person than an officer of stamps, on payment of costs.

Sect. 19. Penalties of 20*l.* and 50*l.* under 55 Geo. III. c. 100, as to receipts in Ireland, reduced to 10*l.*

Sect. 20. "And that, from and after the expiration of ten days next after the passing of this act, so much of the last recited act as declares that any clerk or person in the employment of another, who shall commit certain offences in the said act mentioned relating to receipts, shall, upon being convicted thereof, be deemed guilty of a misdemeanor, and be punished by fine and imprisonment, and other corporal punishment, shall be and the same is hereby repealed; and, from and after the expiration of ten days next after the passing of this act, any clerk or other person in the employment of another, who shall have committed or shall commit any such offence, shall, upon conviction for any such offence, forfeit the sum of 10*l.*, and no more, in addition to the penalty to which the employer or employers of such person is or are by the said last-mentioned act or by this act subject and liable in respect of such offence."

So much of 55 Geo. 3, c. 100, as declared certain offences by clerks as to receipts to be misdemeanors, repealed.
Penalty on persons committing such offences, 10*l.*

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9 Geo. 4, c. 49.
Recovery of penalties.

On proceedings pending for penalties under 55 Geo. 3, c. 100, judgment or conviction shall be only for penalties imposed by this act.

3 & 4 W. 4, c. 23.
Sea insurances.

Insurances on agricultural produce.

5 & 6 W. 4, c. 64.
Life insurances.

Sect. 21 relates to the recovery of penalties on offences committed in Ireland.

Sect. 22. "In every case in which any suit, proceeding, or prosecution shall have been commenced with relation to any such offences under the said last-recited act, and in which judgment or a conviction shall not have been obtained before the passing of this act, such suit, proceeding, or prosecution, shall not be abated or affected in consequence of the provisions of this act, and it shall not be necessary to recommence such suit, proceeding, or prosecution; but in case a judgment or conviction shall be obtained therein, the same shall be given only for the amount of the penalty or penalties by this act imposed, in lieu of the penalty or punishment of the said recited act."

Stat. 3 & 4 Wil. IV. c. 23, s. 1, repeals stamp duties on sea insurances in certain cases; and sect. 2 grants a new schedule for same.

Sect. 5 exempts insurances on agricultural produce and implements of husbandry.

By sect. 6 separate accounts of insurances on agricultural produce, &c., are to be rendered quarterly to the commissioners of stamps.

Stat. 5 & 6 Wil. IV. c. 60, repeals the stamp duty on insurances on lives not exceeding 100*l.*, and reduced duties are granted in lieu thereof.

The following is the Schedule to which the 55 Geo. III. c. 184, refers. (a)

PART THE FIRST.

Containing the duties on admissions to offices, &c.; on instruments of conveyance, contract, obligation, and security for money; on deeds in general; and on other instruments, matters, and things not falling under either of the following heads.

PART THE SECOND.

Containing the duties on law proceedings, or proceedings in the Admiralty and Ecclesiastical Courts, and in the several courts of law and equity at Westminster, and other courts in Great Britain, and in the offices belonging thereto, and before the Lord High Chancellor, or the Lord Keeper, or Commissioners for the Custody of the Great Seal, in matters of bankruptcy and lunacy. [But this is repealed by 5 Geo. IV. c. 41, *ante*, p. 797, as to all the items, except those not here omitted.]

PART THE THIRD.

Containing the duties on probates of wills and letters of administration; on confirmations of testaments, testamentary and dative; on inventories to be exhibited in the commissary courts of Scotland; on legacies out of real or personal, heritable, or moveable estate; and on successions to personal or moveable estates upon intestacy.

PART THE FIRST.

DUTY.

ADMISSION of any person to act as an advocate in any of the ecclesiastical courts, or in the High Court of Admiralty in England; or in any of the courts of justice in Scotland	£.	s.	d.
	-	-	- 50 0 0

Exemptions from the preceding and all other Stamp Duties.

Where an advocate, admitted in one court in England, shall be admitted as an advocate in any other court in England; or being admitted in one court in Scotland, shall be admitted as an advocate in any other court in Scotland; his latter admission shall be free of duty, provided he shall have paid the proper stamp duty on his former admission, according to the laws then in force.

(a) The 48 Geo. III. c. 149, and 44 Geo. III. c. 98, were the prior acts regulating the amount of the stamp duties in general. See 1 *Chit. Col. Stat.*, 959, in the notes.

£ s. d. *Stamps.*

ADMISSION of any person to the degree of a barrister at law, in either of the inns of court in England; for the register or entry thereof -	50	0	0	55 Geo. 3, c. 184.
ADMISSION of any person to act as an attorney, solicitor, or proctor, in any court in England; or as a sworn clerk, side clerk, clerk in court, or other clerk or officer, in any court in England, whose business and emoluments (like those of an attorney and solicitor) shall depend upon his being retained and employed by clients or suitors, and shall therefore be wholly uncertain in amount -	25	0	0	

Exemptions from the preceding and all other Stamp Duties.

Where any person duly admitted an attorney in either of his majesty's courts at Westminster, or in either of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster, and Durham, shall be also admitted to act as an attorney in any other of the said courts, or in any inferior court of law, or as a solicitor in any court of equity in England, the latter admission shall be free of duty.

And where any person duly admitted a solicitor in the Court of Chancery or Exchequer at Westminster, or in either of the courts of the great sessions in Wales, or of the duchy of Lancaster, or of the counties palatine of Chester, Lancaster, and Durham, shall be also admitted to act as a solicitor in any other of the said courts, or in any inferior court of equity, or as an attorney in any court of law in England, the latter admission shall be free of duty.

Provided such attorney or solicitor shall have paid the proper stamp duty on his former admission, according to the laws then in force.

But, in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.

ADMISSION of any person to act as writer to the signet, or as a solicitor, agent, attorney, or procurator, in any court in Scotland, or as a clerk or officer in any court in Scotland, whose business and emoluments (like those of a solicitor) shall depend upon his being retained and employed by clients or suitors, and shall therefore be wholly uncertain in amount -	25	0	0	
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And where any person shall be permitted to act as a solicitor, or agent, in the court of session, justiciary, or commission of teinds in Scotland, who shall not have served a clerkship or apprenticeship for five years, to a writer to the signet, or to a solicitor or agent, under regular articles or indentures of clerkship or apprenticeship, which shall have paid the stamp duty payable by law for the same at the date thereof; his admission shall be charged with a further duty of - 60 0 0

And where any person shall be admitted to act as a procurator or solicitor, in the High Court of Admiralty in Scotland, the Commissary Court at Edinburgh, or any inferior court in Scotland, who shall not have served a clerkship or apprenticeship for five years, to a writer to the signet, or to a solicitor, agent, or procurator, under regular articles or indentures of clerkship or apprenticeship, which shall have paid the stamp duty payable by law for the same at the date thereof; his admission shall be charged with a further duty of - 30 0 0

Exemptions from the preceding and all other Stamp Duties.

Where any person duly admitted a writer to the signet, or a solicitor, agent, or attorney, in either of the courts of session, justiciary, exchequer, or commission of teinds, shall be also admitted to act in either of those capacities in any other or others of the same courts, his latter admission shall be free of duty.

Where any person duly admitted as a solicitor or procurator in the High Court of Admiralty, or in the Commissary Court at Edinburgh, shall be also admitted a solicitor or procurator in the other of those courts, his latter admission shall be free of duty.

And where any person, duly admitted a solicitor or procurator in any of the inferior courts in Scotland, shall be also admitted a

Stamps.

55 Geo. 3, c. 184.

ADMISSION—(Continued.)

£ s. d.

solicitor or procurator in any other or others of the same courts, his latter admission shall be free of duty.

Provided, in each of the foregoing cases, the proper stamp duty shall have been paid, on the former admission of such person, according to the laws then in force.

But in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.

ADMISSION of any person as a master in ordinary in chancery, or as one of the six clerks, or one of the cursitors, of the Court of Chancery in England, or as a sworn clerk, side clerk, clerk in court, or other clerk or officer whatsoever, in any court in Great Britain, who must necessarily be employed to do certain official business, and whose emoluments shall therefore be so far fixed and certain.

Where the salary, fees, and emoluments of the office or appointment shall not amount to 50*l.* per annum -

2 0 0

And where the same shall amount to 50*l.* and not amount to 100*l.* per annum -

4 0 0

And where the same shall amount to 100*l.* and not amount to 200*l.* per annum -

6 0 0

And where the same shall amount to 200*l.* and not amount to 300*l.* per annum -

12 0 0

And where the same shall amount to 300*l.* and not amount to 500*l.* per annum -

25 0 0

And where the same shall amount to 500*l.* and not amount to 750*l.* per annum -

35 0 0

And where the same shall amount to 750*l.* and not amount to 1000*l.* per annum -

50 0 0

And where the same shall amount to 1000*l.* and not amount to 1500*l.* per annum -

75 0 0

And where the same shall amount to 1500*l.* and not amount to 2000*l.* per annum -

100 0 0

And where the same shall amount to 2000*l.* and not amount to 3000*l.* per annum -

150 0 0

And where the same shall amount to 3000*l.* or upwards, per annum -

200 0 0

The said fees and emoluments to be estimated according to the average amount thereof for three years preceding, if practicable; and if not, according to the best information that can be obtained.

Exemptions from the preceding and all other Stamp Duties.

Where any officer shall be admitted annually, every admission after the first shall be free of duty, provided the proper duty shall have been paid on his first admission.

All admissions of officers, proceeding upon any grants of, or appointments to, offices, which shall be charged with the duties hereinafter mentioned.

But in all cases not expressly exempted, the proper duty is to be paid on every admission of the same person.

ADMISSION of any person to act as a notary public. See *Faculty*.

ADMISSION of any person to be a member of either of the four inns of court in England -

25 0 0

ADMISSION of any person to be a member of either of the societies commonly called inns of chancery in England -

3 0 0

ADMISSION of any person to be a fellow of the college of physicians in England or Scotland -

25 0 0

ADMISSION or licence of any person, by the College of Physicians in England or Scotland, to exercise the faculty of physic, or practise as a licentiate -

15 0 0

ADMISSION or matriculation of any person in either of the universities in England -

1 0 0

ADMISSION of any person to the degree of a bachelor of arts, in either of the universities in England, for the registry or entry thereof

If conferred in the ordinary course of the university -

3 0 0

ADMISSION—(Continued.)

	£	s.	d.	Stamps.
If conferred by special grace, or royal mandate, or by reason of nobility, or otherwise out of the ordinary course - - -	5	0	0	55 Geo. 3, c. 184.
ADMISSION of any person to any other degree in either of the universities in England, for the register or entry thereof,				
If conferred in the ordinary course of the university - - -	6	0	0	
If conferred by special grace, or royal mandate, or by reason of nobility, or otherwise, out of the ordinary course, conferring any right of election in such university - - -	10	0	0	
ADMISSION of any person to the degree of doctor of medicine, in either of the universities in Scotland - - -	10	0	0	

Note.—The said hereinbefore mentioned duties on admissions are, in all cases, not expressly provided for, to be charged on the instruments of admission, delivered to the persons admitted, by whatsoever name the same may be called, if there be any such, or if not, on the register, entry, or memorandum of each admission, in the rolls, books, or records of the court, college, inn, or society, in which the admission shall be made; or for want thereof, on the re-script or warrant for such admission.

ADMISSION of any person into any corporation or company, in any city, borough, burgh, or town corporate in Great Britain; for the register, entry, or memorandum thereof, in the court book, roll, or record of such corporation or company;

Where the admission shall be in respect of birth, apprenticeship, or marriage - - - - -	1	0	0
And where the same shall be upon any other ground (a) - - -	3	0	0

Exemptions from the preceding and all other Stamp Duties.

The admissions of craftsmen or others entering in any corporation within any royal burgh, burgh of regality, or burgh or barony, in Scotland, incorporated by the magistrates and council of such burgh; provided such craftsmen or others shall have been previously admitted freemen or burgesses of the burgh, and have paid the proper stamp duty on such admission, according to the laws then in force.

ADMISSION to ecclesiastical benefices in Scotland. See *Collation*.

ADMISSION or admittance to copyhold lands. See *Copyhold*.

AFFIDAVIT, not made for the immediate purpose of being filed, read, or used, in any court of law or equity; for every sheet or piece of paper, parchment, or vellum, on which the same shall be written or printed - - - - - 0 2 6

Exemptions from the preceding and all other Stamp Duties.

Affidavits required or authorized by law, to be made before any justice or justices of the peace; or before any commissioner or commissioners of any public board of revenue, or any of the officers acting under them; or before any other commissioner or commissioners appointed or to be appointed by act of parliament.

Affidavits to be made pursuant to the act of the forty-eighth year of his majesty's reign, c. 149, by persons intromitting with the personal or moveable estate or effects of persons deceased in Scotland.

Affidavits to be made pursuant to this act by persons applying for probates of wills and letters of administration in England, regarding the value of the estate and effects of the deceased.

Affidavits which may be required at the Bank of England, to prove the death of any proprietor of any share in any of the stocks or funds transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stocks or funds.

(a) Where several persons had been admitted to the freedom of a corporation upon *one* stamp, the admission of the person first named was held to be good, and that of all the others void. (*Per Ashhurst, J.*, cited in *Gilby v. Lockyer*, Doug. 216; *the King v. Reeks*, 2 Lord Raym. 1446; *Powell v. Edmunds*, 12 East, 8.)

Stamps.

55 Geo. 3, c. 184.

AFFIDAVIT—(Continued.)

£ s. d.

Also, all affidavits relating to the loss, mutilation, or defacement of any bank note or bank post bill.

See also the general exemptions at the end of this part of the schedule.

AGREEMENT, or contract, accompanied with a deposit of title-deeds, for making a mortgage, wadset, or other security on an estate or property therein comprised. See *Mortgage*.

AGREEMENT (a), or any minute or memorandum of an *agreement*, made in England under hand only, or made in Scotland without any clause of registration (and not otherwise charged in this schedule, nor expressly exempted from all stamp duty), where the matter thereof shall be of the value of 20*l.* or upwards, whether the same shall be only evidence of a contract, or obligatory upon the parties, from its being a written instrument, together with every schedule, *receipt*, or other matter, put or indorsed thereon, or annexed *thereto*;

Where the same shall not contain more than 1080 words (being the amount of fifteen common law folios, or sheets of seventy-two words in each) - - - - -

1 0 0

And where the same shall contain more than 1080 words -

1 15 0

And for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of -

1 5 0

Provided always, that where *divers letters* shall be offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if *any one of such letters* shall be stamped with a duty of 1*l.* 15*s.*, although the same shall, in the whole, contain twice the number of 1080 words or upwards.

Exemptions from the preceding and all other Stamp Duties.

Label, slip, or memorandum, containing the heads of insurances to be made by the corporations of the Royal Exchange Assurance, and London Assurance; or by the corporations of the Royal Exchange Assurance, of houses and goods from fire; and London Assurance, of houses and goods from fire.

Memorandum or agreement, for granting a lease or tack at rack rent, of any messuage, land, or tenement, under the yearly rent of 5*l.*

Memorandum or agreement, for the hire of any labourer, artificer, manufacturer, or menial servant (b).

Memorandum, letter, or agreement, made for or relating to the sale of any *goods, wares, or merchandize* (c).

Memorandum or agreement made between the master and mariners of any ship or vessel, for wages, on any voyage, coastwise, from port to port, in Great Britain.

Letters containing any agreement (not before exempted) in respect of *any merchandize*, or evidence of such an agreement, which shall pass by the post, between merchants or other persons carrying on trade or commerce, in Great Britain, and residing and actually being at the time of such letters, at the distance of fifty miles from each other.

See also the general exemptions at the end of this part of the schedule.

APPOINTMENT, in execution of a power, of land, or other property, real or personal, or of any use or interest therein, where made by any writing, not being a deed or will - - - - -

1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words (being the amount of thirty common law folios or sheets, of seventy-two words each) or upwards, then for every entire quantity of 1080 words (or fifteen common law folios or

(a) See the cases and law in 1 *Chit. Col. Stat.* 962.

(b) See "*Servants*," *ante*, p. 487.
(c) See 1 *Chit. Col. Stat.* 966.

APPOINTMENT—(<i>Continued.</i>)	£	s.	d.	Stamps.
sheets) contained therein, over and above the first 1080 words, a further progressive duty of - - - - -	1	5	0	55 Geo. 3, c. 184.
If made by deed. See <i>Deed</i> .				
APPOINTMENT of a chaplain, operating as a qualification to hold two ecclesiastical benefices in England - - - - -	2	0	0	
APPOINTMENT of a game-keeper. See <i>Deputation</i> .				
APPOINTMENT to offices. See <i>Admission, Grant</i> .				
APPRAISEMENT or valuation of any estate or effects, real or per- sonal, heritable or moveable; or of any interest therein; or of the annual value thereof; or of any dilapidations; or of any repairs wanted; or of the materials and labour used, or to be used in any buildings; or of any artificers' work whatsoever (a).				
Where the amount of such appraisement or valuation shall not exceed 50 <i>l.</i> - - - - -	0	2	6	
And where it shall exceed 50 <i>l.</i> and not exceed 100 <i>l.</i> - - - - -	0	5	0	
And where it shall exceed 100 <i>l.</i> and not exceed 200 <i>l.</i> - - - - -	0	10	0	
Where the amount of such appraisement or valuation shall exceed 200 <i>l.</i> and not exceed 500 <i>l.</i> - - - - -	0	15	0	
And where it shall exceed 500 <i>l.</i> - - - - -	1	0	0	

Exemptions.

Appraisements or valuations made in pursuance of the order of any court of admiralty, or vice-admiralty, or of any court of appeal from any sentence, adjudication, or judgment of any court of admiralty, or vice-admiralty.

Appraisements or valuations of any property, for the purpose of ascertaining the legacy duty payable in respect thereof.

APPRAISER, licence to act as such. See *Licence*.

APPRENTICESHIP and CLERKSHIP. See this title of the schedule, and the cases and decisions thereon, title "*Poor*," Vol. IV.

ARTICLES of CLERKSHIP, or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as an attorney or solicitor,

In any of his majesty's courts at Westminster - - - - - 120 0 0

In any of the courts of the great sessions in Wales, or of the counties Palatine of Chester, Lancaster, and Durham; or in any other court of record in England, holding pleas, where the debt or damage amounts to 40*s.* - - - - - 60 0 0

And for any counterpart or duplicate of any such articles or contracts of clerkship - - - - - 1 15 0

ARTICLES of CLERKSHIP, or contract, whereby any person (*not being an attorney of one of the courts at Westminster*) shall first become bound to serve as a clerk, in order to his admission as a sworn clerk, in the office of the six clerks of the Court of Chancery, or as a sworn clerk, clerk in court, or side clerk, in the office of pleas, or the office of his majesty's remembrancer in the Court of Exchequer in England - - - - - 120 0 0

And for any counterpart or duplicate thereof - - - - - 1 15 0

ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to any such admission as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated by consent, or by rule of court, or in any other event - - - - - 1 15 0

And for any counterpart or duplicate thereof - - - - - 1 15 0

And where any person, having entered into any articles of clerkship or contract, duly stamped according to the law in force at the date thereof, in order to his admission as a sworn clerk, clerk in court, or side clerk, in the Court of Chancery, or Court of Exchequer, or in order to his admission as an attorney or solicitor

(a) A valuation of parish lands by two poor, does not require an appraisement resident parishioners, appointed for that stamp, it being merely for the information purpose by parish officers, for the purpose of the parties employing the valuers. of equalizing a rate for the relief of the *Atkinson v. Fell*, 5 *M. & Sel.* 240.

Stamps.

ARTICLES of CLERKSHIP—(Continued.)

in any of the courts at Westminster, shall afterwards enter into any such articles or contract as aforesaid, for any other of those purposes, the said last-mentioned articles or contract shall be charged only with a duty of	-	-	-	£	s.	d.
And the counterpart or duplicate thereof	-	-	-	1	15	0
And where the same articles of clerkship shall be a qualification to any person to be admitted, not only as an attorney or solicitor in any of the courts at Westminster, but also as a sworn clerk, clerk in court, or side clerk, in the Court of Chancery or Court of Exchequer, or as an attorney or solicitor in any of the inferior courts aforesaid; such articles shall not be charged with more than one duty of 120%.	-	-	-	1	15	0
ARTICLES of CLERKSHIP, or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as a proctor in the High Court of Admiralty in England, or in any of the ecclesiastical courts in Doctors' Commons	-	-	-	120	0	0
And for any counterpart or duplicate thereof	-	-	-	1	15	0
ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to his admission as a proctor in any of the courts aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or the contract between them being vacated, or in any other event	-	-	-	1	15	0
And for any counterpart or duplicate thereof	-	-	-	1	15	0
ARTICLES, or indenture of clerkship or apprenticeship, whereby any person shall first become bound to serve as a clerk or apprentice in order to his admission as a writer to the signet, or as a solicitor, agent, or attorney, in any of the courts of session, justiciary, exchequer, and commission of teinds in Scotland	-	-	-	60	0	0
And for any counterpart or duplicate thereof	-	-	-	1	15	0
ARTICLES or indenture of clerkship or apprenticeship, whereby any person shall first become bound to serve as a clerk or apprentice, in order to his admission to act as a procurator or solicitor in the High Court of Admiralty, the Commissary Court at Edinburgh, or any other inferior court in Scotland	-	-	-	30	0	0
And for any counterpart or duplicate thereof	-	-	-	1	15	0
ARTICLES, or indenture of clerkship or apprenticeship, whereby any person shall become bound to serve as a clerk or apprentice, in order to any such admission in Scotland as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated, or in any other event	-	-	-	1	15	0
And for any counterpart or duplicate thereof	-	-	-	1	15	0
ARTICLES of CLERKSHIP, or contract or indenture of apprenticeship, whereby any person, having been before bound to serve as a clerk or apprentice, in order to any such admission as aforesaid, either in England or Scotland, and not having completed or perfected his service so as to entitle him to such admission, shall become bound afresh, for a new term of years, for the same purpose	The same duty as would be payable on any original articles, contract, or indenture, for such purpose.					
And for any counterpart or duplicate thereof	-	-	-	1	15	0
But in this case, the stamp used on the articles, contract, or indenture, first entered into for the said purpose, shall be allowed as a spoiled stamp, on being delivered up to the commissioners of stamps to be cancelled, within six calendar months after the execution of the new articles, contract, or indenture.	-	-	-	-	-	-
ASSIGNATION or assignment, upon the sale of any property.—See Conveyance.	-	-	-	-	-	-
ASSIGNATION in security.—See Mortgage.	-	-	-	-	-	-
ASSIGNATION of any wadset, heritable bond, &c.—See Mortgage.	-	-	-	-	-	-
ASSIGNMENT of any mortgage, or other similar security.—See Mortgage.	-	-	-	-	-	-
ASSIGNATION or ASSIGNMENT of any property, real or personal, heritable or moveable, not otherwise charged in this schedule, nor expressly exempted from all stamp duty.	-	-	-	1	5	0

ASSIGNATION or ASSIGNMENT—(Continued.)

£ s. d.

Stamps.

55 Geo. 3. c. 184.

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - - -

1 5 0

AWARD in England, and award or decreet-arbitral in Scotland (a) -

1 15 0

And where the same, together with any schedule, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - - -

1 5 0

BARGAIN and SALE (or lease) for a year, for vesting the possession of lands or other hereditaments in England, and enabling the bargainee to take a release of the freehold or inheritance, upon the sale or mortgage thereof:

Where the purchase or consideration money expressed in the release shall not amount to 20*l.* - - - - -

0 10 0

And where the same shall amount to 20*l.* and not amount to 50*l.* -

0 15 0

And where the same shall amount to 50*l.* and not amount to 150*l.* -

1 0 0

And where the same shall amount to 150*l.* or upwards -

1 15 0

BARGAIN and SALE (or lease) for a year, upon any other occasion -

1 15 0

BARGAIN and SALE (to be enrolled) of any estate of freehold, in lands or other hereditaments in England, upon the sale thereof, or by way of mortgage.—See *Conveyance—Mortgage*.

BARGAIN and SALE (to be enrolled) of any estate of freehold, in lands or other hereditaments in England, upon any other occasion than the mortgage or sale thereof - - - - -

5 0 0

And where any such bargain and sale as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of -

1 5 0

Exemptions from the preceding Duty.

Bargains and sales, made by commissioners to the assignees of bankrupts, which are to pay a duty, only as deeds in general.

Inland BILL of EXCHANGE, draft, or order, to the bearer, or to order, either on demand or otherwise, not exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40*s.* and not exceeding 5*l.* 5*s.* - - - - -

0 1 0

Exceeding 5*l.* 5*s.* and not exceeding 20*l.* - - - - -

0 1 6

Exceeding 20*l.* and not exceeding 30*l.* - - - - -

0 2 0

Exceeding 30*l.* and not exceeding 50*l.* - - - - -

0 2 6

Exceeding 50*l.* and not exceeding 100*l.* - - - - -

0 3 6

Exceeding 100*l.* and not exceeding 200*l.* - - - - -

0 4 6

Exceeding 200*l.* and not exceeding 300*l.* - - - - -

0 5 0

Exceeding 300*l.* and not exceeding 500*l.* - - - - -

0 6 0

Exceeding 500*l.* and not exceeding 1000*l.* - - - - -

0 8 6

Exceeding 1000*l.* and not exceeding 2000*l.* - - - - -

0 12 6

Exceeding 2000*l.* and not exceeding 3000*l.* - - - - -

0 15 0

Exceeding 3000*l.* - - - - -

1 5 0

Inland BILL of EXCHANGE, draft, or order, for the payment to the bearer, or to order, at any time exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40*s.* and not exceeding 5*l.* 5*s.* - - - - -

0 1 6

Exceeding 5*l.* 5*s.* and not exceeding 20*l.* - - - - -

0 2 0

Exceeding 20*l.* and not exceeding 30*l.* - - - - -

0 2 6

Exceeding 30*l.* and not exceeding 50*l.* - - - - -

0 3 6

Exceeding 50*l.* and not exceeding 100*l.* - - - - -

0 4 6

Exceeding 100*l.* and not exceeding 200*l.* - - - - -

0 5 0

Exceeding 200*l.* and not exceeding 300*l.* - - - - -

0 6 0

Exceeding 300*l.* and not exceeding 500*l.* - - - - -

0 8 6

(a) See 1 Chit. Col. Stat. 970.

Stamps.	Inland BILL OF EXCHANGE—(Continued.)	£	s.	d.
55 Geo. 3, c. 184.	Exceeding 500 <i>l.</i> and not exceeding 1000 <i>l.</i>	-	0	12 6
	Exceeding 1000 <i>l.</i> and not exceeding 2000 <i>l.</i>	-	0	15 0
	Exceeding 2000 <i>l.</i> and not exceeding 3000 <i>l.</i>	-	1	5 0
	Exceeding 3000 <i>l.</i>	-	1	10 0
	Inland BILL, draft, or order for the payment of any sum of money, though not made payable to the bearer, or to order, if the same shall be delivered to the payee, or some person on his or her behalf	The same duty as on a bill of exchange for the like sum payable to bearer or order.		
	Inland BILL, draft, or order for the payment of any sum of money weekly, monthly, or at any other stated periods, if made payable to the bearer or to order, or if delivered to the payee, or some person on his or her behalf, where the total amount thereby made payable shall be specified therein, or can be ascertained therefrom	The same duty as on bill payable to bearer or order, on demand, for a sum equal to such total amount.		
	And where the total amount of the money thereby made payable shall be indefinite	The same duty as on a bill, on demand, for the sum therein expressed only.		
	And the following instruments shall be deemed and taken to be inland bills, drafts, or orders for the payment of money, within the intent and meaning of this schedule; <i>videlicet</i> —			
	All drafts or orders for the payment of any sum of money by a bill or promissory note, or for the delivery of any such bill or note in payment or satisfaction of any sum of money; where such drafts or orders shall require the payment or delivery to be made to the bearer, or to order, or shall be delivered to the payee, or some person on his or her behalf.			
	All receipts given by any banker or bankers, or other person or persons, for money received, which shall entitle, or be intended to entitle, the person or persons paying the money, or the bearer of such receipts, to receive the like sum from any third person or persons.			
	And all bills, drafts, or orders, for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, if the same shall be made payable to the bearer, or to order, or if the same shall be delivered to the payee, or some person on his or her behalf.			
	Foreign BILL of EXCHANGE (or bill of exchange drawn in, but payable out of Great Britain), if drawn singly, and not in a set	The same duty as on an inland bill of the same amount and tenor.		
	Foreign BILLS of EXCHANGE, drawn in sets, according to the custom of merchants, for every bill of each set, where the sum made payable thereby shall not exceed 100 <i>l.</i>			
	And where it shall exceed 100 <i>l.</i> and not exceed 200 <i>l.</i>	-	0	1 6
	And where it shall exceed 200 <i>l.</i> and not exceed 500 <i>l.</i>	-	0	3 0
	And where it shall exceed 500 <i>l.</i> and not exceed 1000 <i>l.</i>	-	0	4 0
	And where it shall exceed 1000 <i>l.</i> and not exceed 2000 <i>l.</i>	-	0	5 0
	And where it shall exceed 2000 <i>l.</i> and not exceed 3000 <i>l.</i>	-	0	7 6
	And where it shall exceed 3000 <i>l.</i>	-	0	10 0
	And where it shall exceed 3000 <i>l.</i>	-	0	15 0

Exemptions from the preceding and all other Stamp Duties.

All bills of exchange, or bank post bills, issued by the Governor and Company of the Bank of England.

All bills, orders, remittance-bills, and remittance-certificates, drawn by commissioned officers, masters, and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the act passed in the thirty-fifth year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

All bills drawn pursuant to any former act or acts of parliament by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and for taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

Foreign BILLS OF EXCHANGE—(Continued.)

£ s. d. Stamps.

55 Geo. 8, c. 184.

All drafts or orders for the payment of any sum of money to the bearer on demand, and drawn upon any banker or bankers, or any person or persons acting as a banker, or who shall reside or transact the business of a banker, within ten miles of the place where such drafts or orders shall be issued, provided such place shall be specified in such drafts or orders; and provided the same shall bear date on or before the day on which the same shall be issued; and provided the same do not direct the payment to be made by bills or promissory notes.

All bills for the pay and allowances of his majesty's land forces, or for other expenditures liable to be charged in the public regimental or district accounts, which shall be drawn according to the forms now prescribed, or hereafter to be prescribed, by his majesty's orders, by the paymasters of regiments or corps, or by the chief paymaster, or deputy paymaster, and accountant of the army depôt, or by the paymasters of detachments, or by the officer or officers authorized to perform the duties of the paymastership during a vacancy, or the absence, suspension, or incapacity of any such paymaster as aforesaid; save and except such bills as shall be drawn in favour of contractors or others, who furnish bread or forage to his majesty's troops, and who, by their contracts or agreements, shall be liable to pay the stamp duties on the bills given in payment for the articles supplied by them.

BILL of LADING, of or for any goods, merchandize, or effects to be exported or carried coastwise - - - - - 0 3 0

BILL of SALE absolute. See *Conveyance*.

BILL of SALE as a security. See *Mortgage*.

BOND in England and personal bond in Scotland, given as a security for the payment of any definitive * and certain sum of money,

* Sic.

Not exceeding 50 <i>l</i> .	-	-	-	-	1	0	0
Exceeding 50 <i>l</i> . and not exceeding 100 <i>l</i> .	-	-	-	-	1	10	0
Exceeding 100 <i>l</i> . and not exceeding 200 <i>l</i> .	-	-	-	-	2	0	0
Exceeding 200 <i>l</i> . and not exceeding 300 <i>l</i> .	-	-	-	-	3	0	0
Exceeding 300 <i>l</i> . and not exceeding 500 <i>l</i> .	-	-	-	-	4	0	0
Exceeding 500 <i>l</i> . and not exceeding 1000 <i>l</i> .	-	-	-	-	5	0	0
Exceeding 1000 <i>l</i> . and not exceeding 2000 <i>l</i> .	-	-	-	-	6	0	0
Exceeding 2000 <i>l</i> . and not exceeding 3000 <i>l</i> .	-	-	-	-	7	0	0
Exceeding 3000 <i>l</i> . and not exceeding 4000 <i>l</i> .	-	-	-	-	8	0	0
Exceeding 4000 <i>l</i> . and not exceeding 5000 <i>l</i> .	-	-	-	-	9	0	0
Exceeding 5000 <i>l</i> . and not exceeding 10,000 <i>l</i> .	-	-	-	-	12	0	0
Exceeding 10,000 <i>l</i> . and not exceeding 15,000 <i>l</i> .	-	-	-	-	15	0	0
Exceeding 15,000 <i>l</i> . and not exceeding 20,000 <i>l</i> .	-	-	-	-	20	0	0
Exceeding 20,000 <i>l</i> .	-	-	-	-	25	0	0

BOND in England, and personal bond in Scotland, given as a security for the re-payment of any sum or sums of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be,

Where the total amount of the money secured, or to be ultimately recoverable thereupon, shall be uncertain and without any limit - - - - - 25 0 0

And where the money secured, or to be ultimately recoverable thereupon, shall be limited not to exceed a given sum - - - - - } The same duty as on a bond for such limited sum.

BOND in England, and personal bond in Scotland, given as a security for the transfer or re-transfer of any share in any of the Government or Parliamentary stocks or funds, or in the stock and funds of the Governor and Company of the Bank of England, or the East India Company, or of the South Sea Company - } The same duty as on a bond for a sum of money equal to the value of the stock or fund secured, according to the average price thereof, on the day of the date of the bond, or on either of the ten days preceding.

Heritable BOND in Scotland for any of the purposes aforesaid. See *Mortgage*.

55 Geo. 3, c. 184.

BOND in England, and personal bond in Scotland, given as a security for the payment of any sum of money, or for the transfer or re-transfer of any share in any of the stocks or funds before mentioned, which shall be in part secured by a mortgage or wadset, or other instrument or writing hereinafter charged with the same duty as a mortgage or wadset, bearing even date with such bond, or for the performance of covenants contained in such mortgage, or other instrument or writing; or for both those purposes -	1	0	0
BOND in England, and personal or heritable bond in Scotland, given as the only or principal security for the payment of any annuity, upon the original creation and sale thereof. See <i>Conveyance upon the Sale of Lands, &c.</i>			
BOND in England, and personal bond in Scotland, given as a collateral or auxiliary security for the payment of any annuity, upon the original creation and sale thereof, where the same shall be granted or conveyed, or secured, by any other deed or instrument, liable to and charged with the <i>ad valorem</i> duty hereinafter imposed on conveyances upon the sale of any property -	1	0	0
BOND in England, and personal or heritable bond in Scotland, given as a security for the payment of any annuity (except upon the original creation and sale thereof), or any sum or sums of money at stated periods (not being interest for any principal sum, nor rent reserved or payable upon any lease or tack), for any definite and certain term, so that the total amount of the money to be paid can be previously ascertained -	The same duty as on a bond of the like nature for the payment of a sum of money equal to such total amount.		
BOND in England, and personal and heritable bond in Scotland, given as a security for the payment of any annuity (except as aforesaid), or of any sum or sums of money at stated periods (not being interest for any principal sum, nor rent reserved or payable upon any lease or tack), for the term of life, or any other indefinite period, so that the whole money to be paid cannot be previously ascertained,			
Where the annuity, or sum secured, shall not amount to 10 <i>l.</i> per annum -	1	0	0
And where the same shall amount to 10 <i>l.</i> and not amount to 50 <i>l.</i> per annum -	2	0	0
And where the same shall amount to 50 <i>l.</i> and not amount to 100 <i>l.</i> per annum -	3	0	0
And where the same shall amount to 100 <i>l.</i> and not amount to 200 <i>l.</i> per annum -	4	0	0
And where the same shall amount to 200 <i>l.</i> and not amount to 300 <i>l.</i> per annum -	5	0	0
And where the same shall amount to 300 <i>l.</i> and not amount to 400 <i>l.</i> per annum -	6	0	0
And where the same shall amount to 400 <i>l.</i> and not amount to 500 <i>l.</i> per annum -	7	0	0
And where the same shall amount to 500 <i>l.</i> and not amount to 750 <i>l.</i> per annum -	9	0	0
And where the same shall amount to 750 <i>l.</i> and not amount to 1000 <i>l.</i> per annum -	12	0	0
And where the same shall amount to 1000 <i>l.</i> and not amount to 1500 <i>l.</i> per annum -	15	0	0
And where the same shall amount to 1500 <i>l.</i> and not amount to 2000 <i>l.</i> per annum -	20	0	0
And where the same shall amount to 2000 <i>l.</i> per annum or upwards -	25	0	0
But where there shall be both a personal and heritable bond in Scotland, in separate deeds of the same date, for securing any such annuity, or sums payable at stated periods, and the <i>ad valorem</i> duty above charged thereon shall amount to 2 <i>l.</i> or upwards, the heritable bond only shall be charged with the <i>ad valorem</i> duty, and the personal bond shall be charged only with the duty of -	1	0	0
BOND, commonly called counter-bond in England, and personal bond of relief in Scotland, for indemnifying any person who shall have			

BOND—(Continued.)

	£	s.	d.	Stamps.
become bound or engaged as surety or cautioner for the payment of any sum of money or annuity, or for the transfer of any share in any of the stocks or funds before mentioned - - -	1	15	0	55 Geo. 3, c. 184.
BOND in England, and personal bond in Scotland, for the due execution of an office, and to account for money received by virtue thereof - - -	1	15	0	
BOND given pursuant to the directions of any act of Parliament, or by the direction of the commissioners of customs or excise, or any of their officers, for or in respect of any of the duties of customs or excise, or for preventing frauds or evasions thereof, or for any other matter or thing relating thereto - - -	1	0	0	
BOND, entered into by any person, on obtaining a marriage licence	1	0	0	
BOND, on obtaining letters of administration in England, or a confirmation of testament in Scotland - - -	1	0	0	
BOND, accompanied with a deposit of title-deeds, for making a mortgage, wadset, or other security, on any estate or property therein comprised. See <i>Mortgage</i> .				
Back BOND, declaration, or other deed in writing, for making redeemable any disposition, assignation, or tack, apparently absolute, but intended only as a security. See <i>Mortgage</i> .				
BOND in England, and personal bond in Scotland, of any kind whatever, <i>not otherwise charged in this schedule, nor expressly exempted from all stamp duty</i> - - -	1	15	0	
Heritable BOND in Scotland, of any kind whatever, <i>not otherwise charged in this schedule, nor expressly exempted from all stamp duty</i> - - -	1	15	0	

General Directions respecting Bonds.

Where any such bond as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, there shall be charged for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of 1 5 0

And where any such bond as aforesaid shall be given as a security for the payment of a sum of money, and also of a share in any of the stocks or funds before mentioned, on an annuity, or both, or for the payment of an annuity, and also of a share in any of the said stocks or funds, the proper *ad valorem* duty shall be charged in respect of each.

And where any such bond as aforesaid shall be given as a security for the payment or transfer to different persons of separate and distinct sums of money, or annuities or shares in any of the stocks or funds before mentioned, the proper *ad valorem* duty shall be charged in respect of each separate and distinct sum of money, or annuity or share in any of the said stocks or funds therein specified and secured, and not upon the aggregate amount thereof.

And where any bond in England shall be given as a security for the performance of any covenant or agreement for the payment or transfer of any sum of money, or annuity, or any share in any of the stocks or funds before mentioned, such bond shall be charged with the same duty as if the same had been immediately given for the payment or transfer of such money, or annuity, or share of the said stocks or funds.

And where in England any bond for the payment or transfer, or for the performance of any covenant for the payment or transfer of any sum of money or annuity, or any share in any of the stocks or funds before mentioned, shall be contained in one and the same deed or writing, with any other matter or thing, in this schedule specifically charged with any duty (except any declaration of trust of the money, annuity, stock, or fund secured), such deed or writing shall be charged with the same duties as such bond and other matter or thing would have been charged with, if contained in separate deeds.

But where, in England, a bond for the performance of covenants

55 Geo. 3, c. 184.

or agreements (other than for the payment or transfer of any sum of money, or annuity, or any share in any of the said stocks or funds), shall be contained in the same deed or writing, with any other matter or thing, the same shall not be charged separately, but the whole shall be considered as one deed, and be charged accordingly, under its proper denomination.

Exemptions from the preceding and all other Stamp Duties.

Bonds of the Royal Exchange and London Assurance Corporations, exempted from stamp duty by the act of the sixth year of the reign of king George the First, under which they were incorporated.

Bonds and other securities, exempted from stamp duty by the act of the twenty-sixth year of his present majesty's reign, or any other act now in force for the encouragement of the British fisheries.

Bonds, exempted from stamp duty by the act of the twenty-eighth year of his present majesty's reign, or any other act now in force, relating to the exportation of wool, or any manufacture thereof, or fuller's earth, fulling clay, or tobacco-pipe clay; or by the act of the twenty-ninth year of his majesty's reign, or any other act now in force, relating to the exportation of tobacco from his majesty's warehouses.

Coast bonds, or bonds relative to the carrying of goods or merchandize coastwise, whether the same shall be given pursuant to the act of the thirty-second year of his majesty's reign, or any other act now in force, for the relief of the coast trade of Great Britain, or pursuant to the directions of any proclamation or order in council, by his majesty, his heirs, or successors.

Bonds and other securities, exempted from stamp duty by the act of the thirty-third year of his majesty's reign, or any other act now in force, for the encouragement of friendly societies.

Bonds given by card-makers for securing the stamp duties on playing cards.

Bonds given by the proprietors, printers, or publishers of newspapers, for securing the payment of the duties upon the advertisements therein contained.

Bonds given by stationers and others, who sell stamped paper for the printing of newspapers, for the due performance of the matters required of them by the act passed in the thirty-eighth year of his majesty's reign, for regulating the printing and publication of newspapers.

Bonds given by collectors of assessed taxes and their sureties, for the due payment of monies collected by them, or otherwise relating to their offices.

Administration and confirmation bonds, given by the widow, child, father, mother, brother, or sister of any common seaman, marine, or soldier, who shall be slain or die in the service of his majesty, his heirs, or successors.

Administration bond in England given by any person, where the estate to be administered shall not exceed 20*l.* in value.

Confirmation bond in Scotland, where the whole personal estate of the deceased shall not exceed 20*l.* in value.

See also the general exemptions at the end of this part of the schedule.

CERTIFICATE to be taken out *yearly*, by every person admitted as an *attorney or solicitor* in any of his majesty's courts at Westminster, or in any of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster, and Durham, or in any other court in England, holding pleas, where the debt or damage amounts to 40*s.*; and by every person admitted as a proctor in any of the ecclesiastical or admiralty courts in England; and by every person admitted as a writer to the signet, or as a solicitor, agent, attorney, or procurator, in any of the courts in Scotland; and by every person

CERTIFICATE—(Continued.)

£ s. d.

Stamps.

55 Geo. 3, c. 184.

admitted or enrolled as a notary public in England or Scotland; and also by every sworn clerk, clerk in court, and other clerk or officer in any of the courts aforesaid, who, in his own name, or in the name of any other person, shall commence, prosecute, carry on, or defend any action, suit, prosecution, or other proceeding, in any of the courts aforesaid, or do any notarial act whatever, for or in expectation of any fee, gain, or reward, as an attorney, solicitor, agent, proctor, procurator, or notary public, although not admitted or enrolled as such.

If he shall reside in the city of London, or city of Westminster, or within the limits of the two-penny posts in England, or within the city or shire of Edinburgh,

And if he shall have been admitted, or been in possession of his office, for the space of three years or upwards - - -

12 0 0

Or if he shall not have been admitted, or been in possession so long - - - - -

6 0 0

If he shall reside elsewhere,

And if he shall have been admitted, or been in possession of his office, for the space of three years or upwards - - -

8 0 0

Or if he shall not have been admitted, or been in possession so long - - - - -

4 0 0

But no one person is to be obliged to take out more than one certificate, although he may act in more than one of the capacities aforesaid, or in several of the courts aforesaid.

Exemptions.

All clerks and officers of any of the courts aforesaid, who shall act or be concerned in the conduct or management of any action, suit, prosecution, or other proceeding, by virtue and in the execution of their respective offices or appointments only, and shall not be also retained or employed by any party to such action, suit, prosecution, or other proceeding, or by any attorney, solicitor, agent, proctor, or procurator, on behalf of any party thereto, for or in expectation of any fee or reward, other than the established fees due and payable in respect of their offices and appointments.

CERTIFICATE to be taken out *yearly*, by every person, being a member of one of the four inns of court in England, who, in the character of conveyancer, special pleader, draftsman in equity, or otherwise, shall, for or in expectation of any fee, gain, or reward, draw or prepare any conveyance of, or deed or instrument relating to, any estate or property, real or personal, or any other deed or contract whatever, or any pleadings or proceedings in any court of law or equity.

If he shall reside in the city of London, or city of Westminster, or within the limits of the two-penny post in England - - -

12 0 0

And if he shall reside *elsewhere* - - - - -

8 0 0

Exemptions.

Serjeants at law, and barristers.

Attorneys, solicitors, proctors, and notaries public, and other persons acting as such by virtue of any office or appointment, who shall respectively take out certificates in those characters.

Public officers, drawing or preparing deeds or other instruments, by virtue of their offices, and in the course of their official duty only, and not otherwise.

CERTIFICATE of admission to degrees in the universities. See *Testimonial*.

CERTIFICATE of marriage, *except of any common seaman, marine, or soldier* - - - - -

0 5 0

CERTIFICATE of any person's having received the holy sacrament

0 5 0

CERTIFICATE of any goods, wares, or merchandize, having been duly entered inwards, which shall be entered outwards for exporta-

<i>Stamps.</i>		£	s.	d.
55 Geo. 3, c. 184.	CERTIFICATE—(Continued.) tion at the port of importation, or be removed from thence to any other port, for the more convenient exportation thereof from Great Britain; where such certificate shall be issued for enabling any person to obtain a debenture or certificate, entitling him to receive any drawback of any duty or duties of customs, or any part thereof -	0	4	0
	See also <i>Debenture</i> .			
	CHARTER of resignation, or of confirmation, or of <i>novodamus</i> , or upon apprising, or upon a decret of adjudication or sale of any lands, or other heritable subjects in Scotland, holden of any subject superior -	0	9	0
	And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of -	0	9	0
	CHARTER-PARTY, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects, on board of such ship or vessel -	1	15	0
	And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of -	1	5	0
	CLERKSHIP, articles of contract of. See <i>Apprenticeship—Articles</i> .			
	COLLATION by any archbishop or bishop to any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10 <i>l</i> . or upwards in the king's books -	20	0	0
	COLLATION by any archbishop or bishop to any other ecclesiastical benefice, dignity, or promotion whatsoever in England -	10	0	0
	COLLATION, institution, or admission, by any presbytery or other competent authority, to any ecclesiastical benefice in Scotland -	2	0	0
	COMMISSION granted by his majesty, his heirs or successors, or by any person or persons duly authorized by him or them, to any officer in the army, or in the corps of royal marines -	10	0	0
	<i>Exemptions from the preceding and all other Stamp Duties.</i>			
	Commissions granted to officers of yeomanry cavalry, or volunteer infantry, and to officers of the local militia.			
	COMMISSION granted by the lord high admiral, or the commissioners for executing the office of lord high admiral of the United Kingdom, to any officer in the navy -	5	0	0
	COMMISSION, or deputation, granted by the commissioners of excise -	1	10	0
	COMMISSION, appointing any person receiver-general of the land and other taxes, for any county or district in Great Britain -	25	0	0
	COMMISSION, appointing any manager or director, managers or directors, of or concerning any lottery or lotteries to be drawn pursuant to act of Parliament -	20	0	0
	COMMISSION to act as a notary public in Scotland. See <i>Faculty</i> .			
	COMMISSION, in the nature of a power of attorney in Scotland. See <i>Letter of Attorney</i> .			
	COMPOSITION, deed, or other instrument of composition between a debtor or debtors, and his, her, or their creditors -	1	15	0
	And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of -	1	5	0
	CONDITIONAL surrender of any copyhold or customary estate by way of mortgage. See <i>Mortgage</i> .			
	CONSTAT of letters patent. See <i>Exemplification</i> .			
	CONTRACT of excambion in Scotland. See <i>Exchange</i> .			
	CONVEYANCE, (a) whether grant, disposition, lease, assignment, transfer, release, renunciation, or of any other kind or description			

(a) See the cases collected in 1 *Chit. Col. Stat.* 980.

CONVEYANCE—(Continued.)

£ s. d.

Stamps.

55 Geo. 3, c. 184.

whatsoever, upon the sale of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property; that is to say, for and in respect of the principal or only deed, instrument, or writing, whereby the lands or other things sold shall be granted, leased, assigned, transferred, released, renounced, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons, by his, her, or their direction.

Where the purchase or consideration money therein or thereupon expressed shall not amount to 20*l*.

0 10 0

And where the same shall amount to 20*l*. and not amount to 50*l*.

1 0 0

And where the same shall amount to 50*l*. and not amount to 150*l*.

1 10 0

And where the same shall amount to 150*l*. and not amount to 300*l*.

2 0 0

And where the same shall amount to 300*l*. and not amount to 500*l*.

3 0 0

And where the same shall amount to 500*l*. and not amount to 750*l*.

6 0 0

And where the same shall amount to 750*l*. and not amount to 1000*l*.

9 0 0

And where the same shall amount to 1000*l*. and not amount to 2000*l*.

12 0 0

And where the same shall amount to 2000*l*. and not amount to 3000*l*.

25 0 0

And where the same shall amount to 3000*l*. and not amount to 4000*l*.

35 0 0

And where the same shall amount to 4000*l*. and not amount to 5000*l*.

45 0 0

And where the same shall amount to 5000*l*. and not amount to 6000*l*.

55 0 0

And where the same shall amount to 6000*l*. and not amount to 7000*l*.

65 0 0

And where the same shall amount to 7000*l*. and not amount to 8000*l*.

75 0 0

And where the same shall amount to 8000*l*. and not amount to 9000*l*.

85 0 0

And where the same shall amount to 9000*l*. and not amount to 10,000*l*.

95 0 0

And where the same shall amount to 10,000*l*. and not amount to 12,500*l*.

110 0 0

And where the same shall amount to 12,500*l*. and not amount to 15,000*l*.

130 0 0

And where the same shall amount to 15,000*l*. and not amount to 20,000*l*.

170 0 0

And where the same shall amount to 20,000*l*. and not amount to 30,000*l*.

240 0 0

And where the same shall amount to 30,000*l*. and not amount to 40,000*l*.

350 0 0

And where the same shall amount to 40,000*l*. and not amount to 50,000*l*.

450 0 0

And where the same shall amount to 50,000*l*. and not amount to 60,000*l*.

550 0 0

And where the same shall amount to 60,000*l*. and not amount to 80,000*l*.

650 0 0

And where the same shall amount to 80,000*l*. and not amount to 100,000*l*.

800 0 0

And where the same shall amount to 100,000*l*. or upwards

1000 0 0

And where any freehold lands or hereditaments in England shall be conveyed by a deed of feoffment, with or without any letter or letters of attorney therein contained, to deliver or receive seisin, or by a deed of bargain and sale enrolled, such deed of feoffment or bargain and sale, unless accompanied with a lease and release, shall be charged with a further duty as follows:—

If the purchase or consideration money therein or thereupon expressed shall be under 20*l*.

0 10 0

If it shall amount to 20*l*. and not amount to 50*l*.

0 15 0

If it shall amount to 50*l*. and not amount to 150*l*.

1 0 0

If it shall amount to 150*l*. or upwards

1 15 0

CONVEYANCE—(Continued.)

£ s. d.

But if there shall be both a feoffment and a bargain and sale enrolled, then the said further duty shall not attach on either.

Note.—The purchase or consideration money is to be truly expressed and set forth in words at length, in or upon every such principal or only deed or instrument of conveyance.

And where any lands or other property, of different tenures or holdings, or held under different titles, contracted to be sold at one entire price for the whole, shall be conveyed to the purchaser in separate parts or parcels, by different deeds or instruments, the purchase or consideration money shall be divided and apportioned in such manner as the parties shall think fit, so that a distinct price or consideration for each separate part or parcel may be set forth in or upon the principal or only deed or instrument of conveyance relating thereto; which shall be charged with the said *ad valorem* duty in respect of the price or consideration money therein set forth.

And where any lands or other property, contracted to be purchased by two or more persons jointly, or by any person for himself and others, or wholly for others, at one entire price for the whole, shall be conveyed in parts or parcels, by separate deeds or instruments, to the persons for whom the same shall be purchased, for distinct parts or shares of the purchase money; the principal or only deed or instrument of conveyance, of each separate part or parcel, shall be charged with the said *ad valorem* duty, in respect of the sum of money therein specified as the consideration for the same.

But if separate parts or parcels of such lands or other property shall be conveyed to, or to the use of, or in trust for different persons, in and by one and the same deed or instrument, then such deed or instrument shall be charged with the said *ad valorem* duty, in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid, for the lands or property thereby conveyed.

And where any person, having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell to any other person, and the same shall in consequence be conveyed immediately to the sub-purchaser, the principal or only deed or instrument of conveyance shall be charged with the said *ad valorem* duty, in respect of the purchase or consideration money therein mentioned to be paid, or agreed to be paid, by the sub-purchaser.

And where any person, having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell the whole or any part or parts thereof, to any other person or persons, and the same shall in consequence be conveyed, by the original seller, to different persons, in parts or parcels; the principal or only deed or instrument of conveyance, of each part or parcel thereof, shall be charged with the said *ad valorem* duty, in respect only of the purchase or consideration money which shall be therein mentioned to be paid or agreed to be paid for the same, by the person or persons to whom or to whose use or in trust for whom the conveyance shall be made, without regard to the amount of the original purchase-money.

And in all cases of such sub-sales as aforesaid, the sub-purchasers, and the persons immediately selling to them, shall be deemed and taken to be the purchasers and sellers, within the intent and meaning of the provisions and regulations of the aforesaid act of the 48th year of his majesty's reign, relating to the *ad valorem* duties on conveyances on the sale of property thereby imposed, and which are to be observed and enforced with regard to the said *ad valorem* duties hereby granted.

But where any sub-purchaser shall take an actual conveyance of the interest of the person immediately selling to him, which shall be chargeable with the said *ad valorem* duty in respect of

CONVEYANCE—(Continued.)

£ s. d. Stamps.

55 Geo. 3, c. 184.

the purchase or consideration money paid or agreed to be paid by him, and shall be duly stamped accordingly; any deed or instrument of conveyance to be afterwards made to him, of the property in question, by the original seller, shall be exempted from the said *ad valorem* duty, and be charged only with the ordinary duty on deeds or instruments of the same kind not upon a sale.

And where any lands or other property, separately contracted to be purchased of different persons, at separate and distinct prices, shall be conveyed to the purchaser, or as he shall direct, in and by one and the same deed or instrument; such deed or instrument shall be charged with the said *ad valorem* duty, in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid for the same.

And where any lands, or other property, shall be sold and conveyed, in consideration, wholly or in part, of any sum of money charged thereon by way of mortgage, wadset, or otherwise, and then due and owing to the purchaser, or shall be sold and conveyed, subject to any mortgage, wadset, bond, or other debt, or to any gross or entire sum of money, to be afterwards paid by the purchaser, such sum of money or debt shall be deemed the purchase or consideration money, or part of the purchase or consideration money, as the case may be, in respect whereof the said *ad valorem* duty is to be paid.

And to prevent doubts respecting what shall be deemed the principal deed or instrument of conveyance, in certain cases, it is hereby declared:

That where any lands or hereditaments, in England, shall be conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, with or without any such letter or letters of attorney therein contained as aforesaid, the release or feoffment shall be deemed the principal deed; and the bargain and sale shall be charged only with the duty hereby imposed on deeds in general. (See *Deed*.) But the same shall not be enrolled or be available, unless also stamped for testifying the payment of the *ad valorem* duty on the release or feoffment.

And where any lands or hereditaments shall be conveyed by lease and release, and also by feoffment, with or without any such letter or letters of attorney therein contained as aforesaid, the release shall be deemed the principal deed; and the feoffment shall be charged only with the duty hereby imposed on deeds in general. (See *Deed*.) But the same shall not be available, unless also stamped for testifying the payment of the *ad valorem* duty on the release.

And where any copyhold or customary estate shall be conveyed, by a deed of bargain and sale, by the commissioners named in a commission of bankrupt, or by executors or others, by virtue of a power given by will, or by act of Parliament, or otherwise, where a surrender shall not be necessary, the deed of bargain and sale shall be deemed a principal instrument.

And in other cases of copyhold or customary estates, the surrender or voluntary grant, or the memorandum thereof respectively, if made out of court, or the copy of court roll of the surrender or voluntary grant, if made in court, shall be deemed the principal instrument.

And copies of court roll, made after the 31st day of August, 1815, of surrenders and voluntary grants made in court before or upon that day, and subsequent to the 10th day of October, 1808, shall be charged with the said *ad valorem* duties. But copies of court roll, of surrenders and voluntary grants made before or upon the 10th day of October, 1808, shall not be liable thereto.

And grants, and copies of court roll of grants, of copyhold or customary estates for a life or lives, are to be charged, as well as those for any greater interest.

Stamps.

CONVEYANCE—(Continued.)

£ s. d.

55 Geo. 3, c. 184.

And where in Scotland there shall be a disposition or assignation, executed by the seller, and any other instrument or instruments, writing or writings, to complete the title, the disposition or assignation shall be deemed the principal instrument.

And where, *upon the sale of any annuity or other right, not before in existence*, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or otherwise; the bond or other instrument, by which the same shall be secured, or some one of such instruments, if there be more than one, shall be deemed and taken to be liable to the same duty, as an actual grant or conveyance.

And in the case of leases or tacks, where a yearly rent of 20*l.* or upwards shall be reserved, as part of the consideration for the same, there shall be charged a further duty; for which see title *Lease*.

And where the principal or only deed or instrument of conveyance, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of

1 0 0

And where there shall be several deeds, instruments, or writings, for completing the title to the property sold, such of them as are not liable to the said *ad valorem* duty shall be charged with the duty to which the same may be liable, under any general or particular description of such deeds, instruments, or writings contained in this schedule.

And where, *in any case not hereby expressly provided for*, of several deeds, instruments, or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to pay the said *ad valorem* duty thereon accordingly; and, if necessary, the other deeds, instruments, or writings, on which the doubt shall have arisen, shall be stamped with the particular stamp for denoting or testifying the payment of the *ad valorem* duty; upon all the deeds or instruments being produced, and appearing to be duly stamped in other respects.

And where there shall be duplicates of any deed or instrument, chargeable with the said *ad valorem* duty exceeding 2*l.*, one of them only shall be charged therewith, and the other or others shall be charged with the ordinary duty on deeds or instruments of the same kind not upon a sale; and on the whole being produced, duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

And where any deed or instrument, operating as a conveyance on the sale of any property, shall operate also as a conveyance of any other than the property sold by way of settlement, or for any other purpose, or shall also contain any other matter or thing besides what shall be incident to the sale and conveyance of the property sold, or relate to the title thereto; every such deed or instrument shall be charged, in addition to the duty to which it shall be liable as a conveyance on the sale of property, and to any *progressive* duty to which it may also be liable, with such further stamp duty as any separate deed, containing the other matter, would have been chargeable with, exclusive of the *progressive* duty.

Exemptions from the preceding Duties on Conveyances upon the sale of Lands, &c.

All surrenders and other instruments, relating only to copyhold or customary estates, whose clear yearly value shall not exceed 20*s.*, but which are hereinafter otherwise charged.

All transfers of shares in the stock and funds of the governor and company of the Bank of England, and of the South Sea and

CONVEYANCE—(Continued).

£ s. d. Stamps.

East-India Companies, but which are hereinafter otherwise charged.

55 Geo. 3, c. 184.

All leases and tacks in consideration of a fine or grassum, for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted.

All leases in consideration of a fine for a term absolute, not exceeding twenty-one years, granted by ecclesiastical corporations, aggregate or sole.

And all voluntary grants made by the lord or lady of any manor of any copyhold or customary lands or hereditaments for a life or lives for a pecuniary consideration, and the copies of court roll of such voluntary grants.

All which leases, tacks, grants, and copies, are hereinafter charged with ordinary duty.

Exemptions from the preceding and all other Stamp Duties, except the Duty on the receipt for the Consideration Money.

Conveyances of rents purchased under the act of the 34th year of his majesty's reign, c. 75, for the better management of the land revenue of the crown, and for the sale of fee farm and other unimprovable rents, upon subsequent sales thereof by the purchasers or their heirs or assigns to the owners of the lands or other hereditaments out of which the same are payable; where the consideration money to be paid on such subsequent sales shall not exceed the sum of 10*l*.

Exemptions from the preceding and all other Stamp Duties.

All transfers of shares in any of the government or parliamentary stocks or funds.

For other exemptions see the titles *Grant*, *Lease*, and at the end of this part of the schedule.

CONVEYANCE of lands and rents belonging to the crown.—See *Grant*.

CONVEYANCE of any estate or property, in trust for sale, which shall be intended only as a security for money or stock.—See *Mortgage*.

CONVEYANCE of the equity or right of redemption or reversion of lands or other property to a purchaser, in the same deed with a mortgage, wadset, or other security made thereupon.—See *Mortgage*.

CONVEYANCE of any kind whatever, not otherwise charged in this schedule, nor expressly exempted from all stamp duty - - - 1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of - - - 1 5 0

COPY, attested to be a true copy, in the form which hath been commonly used for that purpose, or in any other manner authenticated or declared to be a true copy, or made for the purpose of being given in evidence as a true copy, of any agreement, contract, bond, deed, or other instrument of conveyance, or any other deed whatever, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, or of any part thereof respectively,

Where such a copy shall be made for the security or use of any person being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument - - - *The same duty or duties as for the original instrument.*

And where any such copy shall be made for the security or use of any person *not* being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument - - - 0 1 0

And for every entire quantity of 720 words contained therein, over and above the first 720 words, a further *progressive* duty of - 0 1 0

3 G 3

Stamps.

55 Geo. 3, c. 184.

COPY—(Continued.)

£ s. d.

And all copies which shall at any time be offered in evidence shall be deemed to have been made for that purpose.

Exemption from the preceding and all other Stamp Duties.

All copies attested or authenticated as aforesaid, which shall be made for the private use only of any person having the custody of the original instruments, or of his or her counsel, attorney, or solicitor.

COPY, attested or authenticated as aforesaid, or made for the purpose of being given in evidence as true copy of any original will, testament, or codicil; or of the probate or probate copy of any will or codicil; or of any letters of administration; or of any confirmation of a testament, testamentary or dative; or of any part thereof respectively - - - - -

0 1 0

And for every entire quantity of 720 words contained in any such copy, over and above the first 720 words, a further *progressive* duty of - - - - -

0 1 0

And all copies which shall at any time be offered in evidence shall be deemed to have been made for that purpose.

Office COPY, or extract of any will or codicil, deposited in any ecclesiastical court in England - - - - -

0 1 0

And for every entire quantity of 90 words contained in any such copy or extract, over and above the first 90 words, a further *progressive* duty of - - - - -

0 1 0

COPY or extract of any memorial, or of the register of any memorial, registered pursuant to any act of Parliament, made or to be made, for the public registering of deeds and conveyances in England - -

0 5 0

And for every piece of vellum, parchment, or paper, upon which any such copy or extract shall be written, after the first, a further *progressive* duty of - - - - -

0 5 0

COPY or extract of any deed, or of any other instrument *not falling under the description of law proceedings*, which shall be made or taken from the rolls or records of any of his majesty's courts at Westminster - - - - -

0 2 0

And for every piece of vellum, parchment, or paper, upon which any such copy or extract shall be written, after the first, a further *progressive* duty of - - - - -

0 2 0

Attested COPY or extract of any deed, instrument, or writing, given out from any public register, or from the books or records of any court in Scotland, and *not otherwise charged under the head of law proceedings* - - - - -

0 2 6

And where the same shall contain more than 600 words, then for every entire quantity of 600 words contained therein, over and above the first 600 words, a further *progressive* duty of - -

0 2 6

And for any less quantity of words contained therein, over and above the first 600 words, or over and above any second, third, or other full quantity of 600 words, a further *progressive* duty of -

0 2 6

Exemptions from the preceding and all other Stamp Duties.

Certified copies of proceedings and interlocutors required or authorized in cases of appeal to the House of Lords.

Copies or extracts of protests, upon bills or promissory notes, for any sum under 40s. sterling.

Extracts or commissions of persons as delegates or representatives to the general assembly or to any presbytery or church court, in Scotland; and of commissions of delegates to the convention of royal burghs; and of commissions of delegates from any royal burgh for the election of members of Parliament.

COPYHOLD estates, and customary estates, passing by surrender and admittance, or by admittance only, and not by deed; instruments relating thereto, *not otherwise charged under the head of mortgage, or of conveyance upon the sale of lands; viz.*

Any surrender made out of court, or the memorandum thereof, where the clear yearly value of the estate shall exceed 20s. -

0 1 0

And where the same shall not exceed 20s. - - - - -

0 5 0

COPYHOLD—(Continued.)

See also *Conveyance* upon Sale of Lands, &c. and *Mortgage*.

Any admittance out of court, or the memorandum thereof; where the clear yearly value of the estate shall exceed 20s. -

£ s. d. Stamps.
55 Geo. 3, c. 184.

And where the same shall not exceed 20s. -

1 0 0
0 5 0

And where both a surrender and admittance, or more than one surrender or admittance, or the memorandum thereof, shall be contained in the same piece of vellum, parchment, or paper, whether upon a sale, mortgage, or other occasion, the proper duty shall be paid, in respect to each surrender and each admittance.

And where any surrender or admittance, or the memorandum thereof, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words, a further *progressive* duty of -

1 0 0

The copy of court roll of any surrender made in court, where the clear yearly value of the estate shall exceed 20s. -

1 0 0

And where the same shall not exceed 20s. -

0 5 0

See also *Conveyance* upon the Sale of Lands, &c., and *Mortgage*.

The copy of court roll of any admittance in court, where the clear value of the estate shall exceed 20s. -

1 0 0

And where the same shall not exceed 20s. -

0 5 0

And where copies of both a surrender and admittance, or of more than one surrender or admittance, shall be contained in the same piece of vellum, parchment, or paper, whether upon a sale, mortgage, or other occasion, the proper duty shall be paid, in respect of each surrender, and each admittance, except in the case of a recovery, hereinafter provided for.

And where the copy of any such surrender or admittance, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of -

1 0 0

The copy of court roll of the several surrenders, admittances, and other acts which shall take place in court, for the purpose of perfecting a common recovery of any entailed copyhold or customary estate or estates, tenement or tenements, from the surrender to make a tenant of the præcipe, down to the admittance of the tenant in tail, in fee, or to the admittance for life of the former tenant for life, with remainder to the tenant in tail, in fee, upon the surrender of the demandant, both inclusive; or from the surrender to make a tenant to the præcipe, inclusive, to the admittance of the tenant in tail, or tenant for life, otherwise than as aforesaid, or to the admittance of any other person, upon the surrender of the demandant, exclusive where the clear yearly value of the estate shall exceed 20s. -

Five times
1 0 0

And where the same shall not exceed 20s. -

Five times
0 5 0

And if the copy of court roll of any other admittance or surrender, admittances or surrenders, shall be contained in the same piece of vellum, parchment, or paper, with the copy of court roll of the several surrenders, admittances, and other acts, for the purpose aforesaid; the same shall be charged with such and the same duty or duties, as if the same had been written upon a separate piece of vellum, parchment, or paper, over and above the said duties hereby imposed on the copy of court roll of the recovery.

Any voluntary grant by the lord or lady, or steward of any manor, made out of court, or the memorandum thereof, with or without admittance thereon; where the clear yearly value of the estate shall exceed 20s. -

Twice
0 5 0

Stamps.

COPYHOLD—(Continued.)

55 Geo. 3, c. 184.

	£	s.	d.
And where the same shall not exceed 20s.	-	-	-
The copy of court roll of any voluntary grant made in court, by the lord or lady, or steward of any manor, with or without admittance thereon; where the clear yearly value of the estate shall exceed 20s.	-	-	-
And where the same shall not exceed 20s.	-	-	-
See, also, <i>Conveyances</i> upon the Sale of Lands, &c., and <i>Mortgage</i> .			
And where any voluntary grant, or the memorandum, or copy of court roll thereof, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	-	-	-
Any licence to demise, or the memorandum thereof, if granted out of court, and the copy of court roll of any licence to demise, if granted in court, where the clear yearly value of the estate shall exceed 20s.	-	-	-
And where the same shall not exceed 20s.	-	-	-

Twice
1 0 0Twice
1 0 0Twice
0 5 0

1 0 0

1 0 0

0 5 0

Exemptions from the preceding and all other Stamp Duties.

- Original surrenders out of court, and copies of court roll of surrenders in court to the uses of a will, or to a trustee for the uses or purposes of a will.
- The court rolls or books of any manor, wherein the proceedings relating thereto shall be entered or minuted.
- See, also, the General Exemptions at the end of this part of the schedule.

DEBENTURE or CERTIFICATE for entitling any person to receive any drawback of any duty or duties, or part of any duty or duties, of customs or excise, or any bounty payable out of the revenue of customs or excise, for or in respect of any goods, wares, or merchandize exported or shipped to be exported from Great Britain to any part beyond the seas.

If the same shall not exceed 100 <i>l</i> .	-	-	-	0	5	0
If the same shall exceed 100 <i>l</i> . and not exceed 200 <i>l</i> .	-	-	-	0	10	0
If the same shall exceed 200 <i>l</i> . and not exceed 500 <i>l</i> .	-	-	-	1	0	0
If the same shall exceed 500 <i>l</i> .	-	-	-	2	0	0

Exemptions from the preceding and all other Stamp Duties.

- All debentures or certificates for bounty, which were heretofore exempted from stamp duty by any act or acts of Parliament, granting a bounty on the exportation of linens or sail-cloth.
- DECLARATION of any use or trust, uses or trusts, of or concerning any estate or property, real or personal, where made by any writing not being a deed or will, nor otherwise charged in the schedule
- And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of
- If made by deed.—See *Deed*.
- DEED, whereby any real burthen shall be declared or created on lands or heritable subjects in Scotland.—See *Mortgage, Disposition*.
- DEED, containing an obligation to infest any person, in heritable subjects in Scotland, under a clause of reversion, as a security for money, but without any personal bond or obligation therein for payment of the money intended to be secured.—See *Mortgage*.
- DEED of any kind whatever, *not otherwise charged in this schedule*, nor expressly exempted from all stamp duty
- And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words, or upwards, then for every entire quantity of

1 15 0

1 5 0

1 15 0

DEED—(*Continued.*)£ s. d. *Stamps.*

1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of - - -

1 5 0 55 Geo. 3, c. 184.

DEFEAZANCE.—Deed, or other instrument of defeazance, of any conveyance, disposition, assignation, or tack, apparently absolute, but intended only as a security for money or stock.—See *Mortgage*.

DEPUTATION by the commissioners of excise.—See *Commission*.

DEPUTATION or appointment of a gamekeeper - - - 1 15 0

DISCHARGE for money.—See *Receipt*.

DISPENSATION for holding two ecclesiastical dignities or benefices, or a dignity and a benefice, in England, where either of them shall be above the yearly value of 10*l.* in the king's books - - -

40 0 0

And in all other cases - - - 25 0 0

DISPENSATION of any other kind, from the Archbishop of Canterbury, or the master of the faculties for the time being, or from the guardian of the spiritualities, during a vacancy of the archbishop's see - - -

40 0 0

DISPOSITION of lands or heritable subjects in Scotland to singular successors or purchasers.—See *Conveyance*.

DISPOSITION of lands or other heritable subjects in Scotland, to a purchaser, containing a clause, declaring all or any part of the purchase money a real burthen upon or affecting the lands or heritable subjects thereby disposed, or any part thereof;

Such dispositions shall be charged, not only with the *ad valorem* and *progressive* duties hereinbefore charged on a conveyance upon the sale of lands or heritable subjects in Scotland, but also with the *ad valorem* duty hereinbefore charged on any deed creating a real burthen on lands in Scotland.—See *Conveyance*—*Mortgage*.

DISPOSITION in security, in Scotland.—See *Mortgage*.

DISPOSITION of any wadset, heritable bond, &c.—See *Mortgage*.

DISPOSITION of any lands or other property, heritable or moveable, in Scotland, or of any right or interest therein, *not otherwise charged in this schedule* - - -

1 15 0

And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080

words, a further *progressive* duty of - - - 1 5 0

DOCKET, made on passing under the great seal of the United Kingdom, any grant, letters patent, exemplification, constat, or other instrument, requiring a docket - - -

0 2 0

DONATION by his majesty, his heirs or successors, or by any other patron

Of any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10*l.* or upwards in the king's books - - -

20 0 0

Of any other ecclesiastical benefice, dignity, or promotion whatsoever in England - - -

10 0 0

DRAFT for Money.—See *Bill of Exchange*.

EIK to a Reversion.—See *Mortgage*.

EXCHANGE.—Any deed, whereby any lands or other hereditaments or heritable subjects in England or Scotland, shall be conveyed, or any copyhold or customary lands, or hereditaments in England, shall be covenanted to be surrendered *in exchange* for other lands or hereditaments, or heritable subjects,

If no sum of money, or only a sum under 300*l.* shall be paid, or agreed to be paid for equality of exchange, the ordinary duty of - - -

1 15 0

And if a sum of 300*l.* or upwards shall be paid, or agreed to be paid for equality of exchange - - - *The same ad valorem duty as for a conveyance on the sale of lands for a sum of money equal to the sum so paid or agreed to be paid.*

And where any such deed of exchange, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every

Stamps.

EXCHANGE—(Continued).

£ s. d.

55 Geo. 3, c. 184.

entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of

If the deed be liable, in the first instance, to a duty of 1*l.* 15*s.* - 1 5 0

Or if liable to a higher duty, in the first instance - 1 0 0

And any duplicate of any such deed of exchange shall be charged with the same duty or duties; and if the exchange shall be effected or secured by separate conveyances or covenants, by distinct deeds, each deed shall be charged with the same duty or duties.

And in case there shall be more than one deed for completing the title to the lands or other hereditaments or heritable subjects conveyed by either party, the principal deed only shall be charged under this head of exchange; and any subordinate or collateral deed shall be charged with the duty to which it may be liable under any other description in this schedule.

EXEMPLIFICATION or constat, under the great seal of the United Kingdom of Great Britain and Ireland, of any letters patent or grant made or to be made by his majesty, his heirs or successors, or by any of his royal predecessors, of any honour, dignity, promotion, franchise, liberty, or privilege, or of any lands, office, or other thing whatsoever,

For every skin, sheet, or piece of vellum, parchment, or paper, upon which any such exemplification or constat shall be written - 5 0 0

EXTRACTS from registers and records, in England and Scotland.

See *Copy*.

FACTORY, in the nature of a power of attorney in Scotland. See *Letter of Attorney*.

FACULTY, licence, or commission, for admitting or authorizing any person to act as a notary public in England - 30 0 0

FACULTY, licence, or commission, for admitting or authorizing any person to act as a notary public in Scotland - 20 0 0

FACULTY from the Archbishop of Canterbury, or the master of the faculties for the time being, or from the guardian of the spiritualities during a vacancy of the archbishop's see, *not otherwise charged* - 30 0 0

FEOFFMENT of lands or other hereditaments in England, upon the sale or mortgage thereof. See *Conveyance—Mortgage*.

FEOFFMENT of lands or other hereditaments in England, *not otherwise charged* - 1 15 0

And where the same shall contain any letter or letters of attorney to deliver or receive seisin, a *further* duty of - 1 15 0

And where the same, together with any such letter or letters of attorney, and any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of - 1 5 0

FURTHER CHARGE. See *Mortgage*.

GIFT of *ultimus hæres*, bastardy, escheat, or forfeiture, in Scotland. See *Grant*.

GIFT of the vacant stipend of any parish in Scotland, whereof the presentation to the church shall belong to the crown - 1 10 0

GRANT or letters patent under the great seal of the United Kingdom of Great Britain and Ireland, or of the seal of the duchy or county palatine of Lancaster, or under the seal kept and used in Scotland, in place of the great seal formerly used there,

Of the honour or dignity of a duke - 350 0 0

_____ of a marquis - 300 0 0

_____ of an earl - 250 0 0

_____ of a viscount - 200 0 0

_____ of a baron - 150 0 0

_____ of a baronet - 100 0 0

Of a *congé d'elire*, to any dean and chapter for the election of an archbishop or bishop - 30 0 0

Of the royal assent to or signification of the election made by any

GRANT—(Continued.)	£	s.	d.	Stamps.
dean and chapter, or of the nomination and presentation by his majesty, his heirs, or successors, in default of such election, of any person to be an archbishop or bishop - - -	30	0	0	55 Geo. 3, c. 184.
Of or for the restitution of the temporalities to any archbishop or bishop - - -	30	0	0	
Of any other honour, dignity, or promotion whatsoever, or of any franchise, liberty, or privilege, to any person or persons, body or bodies politic or corporate - - -	30	0	0	
And where two or more honours or dignities shall be granted by the same letters patent to the same person, such letters patent shall be charged with the proper duty in respect of the highest in point of rank only.				
And where any honour or dignity, honours or dignities, shall be granted to any person or persons, in remainder, the letters patent shall be charged with such further duty, in respect of every remainder, as would have been payable for an original grant of the same honour or dignity, honours or dignities.				
And where any such grant or letters patent shall be contained in more than one skin, sheet, or piece of vellum, parchment, or paper, then for every skin, sheet, or piece thereof, after the first, a further <i>progressive</i> duty of - - -	20	0	0	

Exemptions from the preceding and all other Stamp Duties.

Commissions of rebellion in process.

Letters patent or briefs for collecting charitable benevolences.

Letters patent for confirming any dispensation hereinbefore charged with a duty.

Letters patent appointing sheriffs in England, and the writs of assistance accompanying such letters patent.

GRANT, or warrant of precedence to take rank among nobility, under the sign manual of his majesty, his heirs, or successors - - - 100 0 0

GRANT or licence under the sign manual, to take and use a surname and arms, or a surname only, in compliance with the injunctions of any will or settlement - - - 50 0 0

GRANT or licence under the sign manual, to take and use a surname and arms, or a surname only, upon any voluntary application - - 10 0 0

GRANT of arms or armorial ensigns only, under the sign manual, or by any of the kings of arms of England or Scotland - - - 10 0 0

GRANT, lease, or tack, under the great seal of the United Kingdom of Great Britain and Ireland, or the seal of the exchequer of England, or the seal of the duchy or county palatine of Lancaster, or the seal kept and used in Scotland, in place of the great seal formerly used there; or under the privy seal in England, or the quarter seal or privy seal in Scotland, unless directed to the great seal; or under the royal sign manual of his majesty, his heirs, or successors, unless directed to any of the seals aforesaid,

Of any lands, tenements, hereditaments, or heritable subjects, whatever the tenure thereof may be, which have or shall come to his majesty, his heirs, or successors, by escheat or forfeiture, or as *ultimus hæres*, or by reason of the same being purchased by or for any alien; or which his majesty, his heirs, or successors, is or shall be otherwise entitled to, in right of the crown, and be authorized to dispose of, *absolutely*, as he or they shall think fit; whether such grant, lease, or tack, shall be in fee or fee tail, or for term of life or years,

Or of any lands, tenements, hereditaments, or heritable subjects belonging to the duchy of Lancaster, or belonging to the crown in Scotland, whereof his majesty, his heirs or successors, is or shall be authorized to make only certain *limited* grants, leases, or tacks; whether such grant, lease, or tack shall be for term of life or years,

Or of any goods, chattels, or personal or moveable estate, or other profit, whereof the grant is not otherwise charged in this schedule,

Where such grant, lease, or tack, shall be intended to operate in

Stamps.

55 Geo. 3, c. 184.

GRANT—(Continued.)

any degree, as a gift, *except in the cases next hereinafter mentioned*, then for every skin, sheet, or piece of vellum, parchment, or paper, upon which the same shall be written, a duty of

And where any such grant, lease, or tack, operating as a gift, shall be of lands or other hereditaments, or heritable subjects, vested in his majesty, his heirs or successors, by escheat or as *ultimus hæres*, for want of heirs of any person, who was a *bare trustee* thereof, or seised into the hands of the crown upon any *outlawry*, in a civil action, at the suit of any of his majesty's subjects

And if any such grant, lease, or tack, charged with a duty of 1*l.* 15*s.*, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of

And where any such grant, lease, or tack, shall be made for what shall be deemed and intended as a *full and adequate consideration* for the same, either in money paid at once, or in rent, or in lands or hereditaments given in exchange or otherwise

GRANT, or conveyance, under the seal of the duchy of Lancaster, made in pursuance of the act passed in the 19th year of his majesty's reign, c. 45, for enabling the chancellor and council of the duchy to sell certain rents, and to enfranchise copyhold and customary tenements, within their survey

See *Conveyance*.

Exemptions from the preceding and all other Stamp Duties, except the Duty on the Receipt for Consideration Money.

All grants and conveyances under the seal of the duchy of Lancaster, made in pursuance of the said act of the 19th year of his majesty's reign, where the consideration money paid for the same shall not exceed 10*l.*

GRANT, lease, or other conveyance, from his majesty, his heirs or successors, of any lands, tenements, or hereditaments, or of any personal estate, being respectively the *private property* of his majesty, his heirs, or successors, and subject to his or their absolute disposal, by virtue of the act passed in the 40th year of his majesty's reign, concerning the disposition of certain real and personal property of his majesty, his heirs, or successors

GRANT under the great seal of the United Kingdom of Great Britain and Ireland, or the seal kept and used in Scotland, in place of the great seal formerly used there; or under the privy seal in England, or the quarter seal or privy seal in Scotland, unless directed to the great seal; or under the sign manual of his majesty, his heirs, or successors, unless directed to any of the seals aforesaid; out of the civil list, either of England or Scotland, or out of any other fund, not being part of the supplies of the year, or appropriated by Parliament,

Of any definite and certain *sum or sums of money*.

Not amounting to 100*l.*

Amounting to 100*l.* and not amounting to 250*l.*

Amounting to 250*l.* and not amounting to 500*l.*

Amounting to 500*l.* and not amounting to 750*l.*

Amounting to 750*l.* and not amounting to 1000*l.*

Amounting to 1000*l.* or upwards; for every 100*l.* thereof

Or of any *annuity or pension*,

Not amounting to 100*l.* per annum

Amounting to 100*l.* and not amounting to 200*l.* per annum

Amounting to 200*l.* and not amounting to 400*l.* per annum

Amounting to 400*l.* and not amounting to 600*l.* per annum

Amounting to 600*l.* and not amounting to 800*l.* per annum

Amounting to 800*l.* and not amounting to 1000*l.* per annum

£ s. d.

30 0 0

1 15 0

1 5 0

The same duty as on a grant, lease, or tack of the like description, made by any of his majesty's subjects.

The same duty as for any other conveyance upon the sale of any property for a consideration of the like amount.

The same duty as on a grant, lease, or conveyance of the like description, from any of his majesty's subjects.

1 10 0

4 0 0

10 0 0

20 0 0

30 0 0

5 0 0

1 10 0

4 0 0

10 0 0

20 0 0

30 0 0

40 0 0

GRANT—(Continued.)

	£	s.	d.	Stamps.
Amounting to 1000 <i>l.</i> per annum or upwards - - -	50	0	0	55 Geo. 3, c. 184.
But where any such grant of an annuity or pension shall be made in confirmation or by way of renewal only of any former grant of the like amount and description, then only a duty of -	1	10	0	
And where several and distinct annuities or pensions shall be granted to or for the benefit of different persons by the same instrument, the proper duty shall be charged in respect of each annuity or pension; but where the grant shall be of any annuity or pension, to or for the benefit of two or more persons jointly, the duty shall be charged in respect of the whole.				
GRANT, or appointment by his majesty, his heirs, or successors, or by any other person or persons, body politic or corporate, of or to any office or employment, by letters patent, deed, or other writing,				
Where the salary, fees, and emoluments appertaining thereto, shall not amount to 50 <i>l.</i> per annum - - -	2	0	0	
And where the same shall amount to 50 <i>l.</i> and not amount to 100 <i>l.</i> per annum - - -	4	0	0	
And where the same shall amount to 100 <i>l.</i> and not amount to 200 <i>l.</i> per annum - - -	6	0	0	
And where the same shall amount to 200 <i>l.</i> and not amount to 300 <i>l.</i> per annum - - -	12	0	0	
And where the same shall amount to 300 <i>l.</i> and not amount to 500 <i>l.</i> per annum - - -	25	0	0	
And where the same shall amount to 500 <i>l.</i> and not amount to 750 <i>l.</i> per annum - - -	35	0	0	
And where the same shall amount to 750 <i>l.</i> and not amount to 1000 <i>l.</i> per annum - - -	50	0	0	
And where the same shall amount to 1000 <i>l.</i> and not amount to 1500 <i>l.</i> per annum - - -	75	0	0	
And where the same shall amount to 1500 <i>l.</i> and not amount to 2000 <i>l.</i> per annum - - -	100	0	0	
And where the same shall amount to 2000 <i>l.</i> and not amount to 3000 <i>l.</i> per annum - - -	150	0	0	
And where the same shall amount to 3000 <i>l.</i> per annum or upwards - - -	200	0	0	
The said fees and emoluments to be estimated according to the average amount thereof for three years preceding, where practicable; and, in other cases, according to the best information that can be obtained.				
And where any such grant or appointment shall be made to or of two or more persons jointly, with separate and distinct salaries, fees, or emoluments, the same shall be charged with a separate and distinct duty, in respect of each person, according to the amount of the salary, fees, and emoluments appertaining to such person.				
Provided always, that no duty shall be charged, in respect of any person to whom any office or employment shall be granted anew, upon the revocation of any former grant or appointment thereof, and who shall have paid a stamp duty on such former grant or appointment, unless the salary, fees, and emoluments appertaining to such person shall be in any manner augmented; and, in that case, a duty shall be charged, in respect of such person, only in proportion to the amount of the augmentation.				
GRANT by copy of court roll. See <i>Conveyance, Copyhold</i> .				
GRANT upon the sale of any property not belonging to the crown. See <i>Conveyance</i> .				
HERITABLE BOND. See <i>Bond, Mortgage</i> .				
INSTITUTION, granted by an archbishop, bishop, chancellor, or other ordinary, or by any ecclesiastical court in and to any ecclesiastical benefice, dignity, or promotion, in England.				
Where the same shall proceed upon a presentation - - -	2	0	0	
And where it shall proceed upon the petition of the patron to be himself admitted and instituted; if the benefice, dignity, or promotion, shall be of the yearly value of 10 <i>l.</i> or upwards in the king's books - - -	30	0	0	

Stamps.	INSTITUTION—(Continued.)	£ s. d.
55 Geo. 3, c. 184.	Or if the same shall be of any other description	15 0 0
	But such petition shall not be liable to any stamp duty.	
	INSTITUTION, by any presbytery or other competent authority, to ecclesiastical benefices in Scotland. See <i>Collation</i> .	
	INVENTORY. See <i>Schedule</i> .	
	LAND-TAX. Instruments relating to the redemption and sale thereof. See the general exemptions at the end of this part of the Schedule.	
	LEASES or tacks of lands, &c. belonging to his majesty, in right of the crown, or otherwise. See <i>Grant</i> .	
	LEASES, or tacks of lands, &c. not belonging to his majesty, viz.	
	LEASE (or bargain and sale) for a year. See <i>Bargain and Sale</i> .	
	LEASE or tack of any lands, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of fine, premium, or grassum, paid for the same, without any yearly rent, or with any yearly rent, under 20 <i>l.</i> (a)	The same duty as for the conveyance on the sale of lands for a sum of money of the same amount.
	Save and except leases and tacks for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted, and leases for a term absolute not exceeding twenty-one years, granted by ecclesiastical corporations, aggregate or sole.	
	LEASE or tack of any lands, hereditaments, or heritable subjects, at a yearly rent, without any sum of money by way of fine, premium, or grassum, paid for the same,	
	Where the yearly rent shall not amount to 20 <i>l.</i>	1 0 0
	And where the same shall amount to 20 <i>l.</i> and not amount to 100 <i>l.</i>	1 10 0
	And where the same shall amount to 100 <i>l.</i> and not amount to 200 <i>l.</i>	2 0 0
	And where the same shall amount to 200 <i>l.</i> and not amount to 400 <i>l.</i>	3 0 0
	And where the same shall amount to 400 <i>l.</i> and not amount to 600 <i>l.</i>	4 0 0
	And where the same shall amount to 600 <i>l.</i> and not amount to 800 <i>l.</i>	5 0 0
	And where the same shall amount to 800 <i>l.</i> and not amount to 1000 <i>l.</i>	6 0 0
	And where the same shall amount to 1000 <i>l.</i> or upwards	10 0 0
	LEASE or tack of any lands, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of fine, premium, or grassum, and also of a yearly rent amounting to 20 <i>l.</i> or upwards (Save and except the leases and tacks hereinbefore excepted.)	Both the ad valorem duties payable for a lease in consideration of a fine only, and for a lease in consideration of a rent only of the same amount.
	LEASE, or tack of any kind, not otherwise charged in this schedule	1 15 0
	And for the counterpart or duplicate of any lease or tack hereby charged with a duty not exceeding 1 <i>l.</i>	The like duty as on the lease or tack.
	And for the counterpart or duplicate of any other lease or tack whatsoever	1 10 0
	And where any such lease or tack, counterpart, or duplicate, as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1 0 0
	<i>Exemptions from the preceding and all other Stamp Duties.</i>	
	Leases or tacks of waste or uncultivated lands to any poor or labouring persons, for any term not exceeding three lives, or ninety-nine years, where the fine shall not exceed 5 <i>s.</i> , nor the reserved rent one guinea per annum; and the counterparts or duplicates of all such leases.	
	LETTER, or power of attorney, made by any petty officer, seaman, marine, or soldier serving as a marine, or by the executors or administrators of any such person, for receiving prize-money	0 1 0
	and for receiving wages	1 0 0
	LETTER of attorney for the sale, transfer, acceptance, or receipt of dividends, of any of the government or parliamentary stocks or funds	1 10 0

(a) See the notes, 1 *Chit. Col. Stat.* 993.

	£	s.	d.	Stamps.
LETTER or power of attorney of any other kind, or commission or factory in the nature thereof - - - - -	1	10	0	55 Geo. 3, c. 184.
And where the same, together with any schedule, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of - - - - -	1	0	0	

Exemptions from the preceding and all other Stamp Duties.

Letters of attorney for the receipt of dividends of any definite and certain share of the government or parliamentary stocks or funds, producing a yearly dividend of less than 3*l*.

LETTER of licence from creditors to a debtor - - - - -	1	15	0
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And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of - - - - -

LETTERS of mark and reprisal - - - - -	5	0	0
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LETTERS Patent.—See *Grant*.

LETTER of REVERSION in Scotland.—See *Mortgage*.

LICENCE for marriage, in England, if special - - - - -	5	0	0
if not special - - - - -	0	10	0

LICENCE to be granted by any archbishop, bishop, vicar-general or other competent authority, in England, for the non-residence of any clergyman upon his living, pursuant to the act of the 43rd year of his majesty's reign - - - - -	1	0	0
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LICENCE of any kind, not otherwise charged in this schedule, which shall pass the seal of any archbishop, bishop, chancellor, or other ordinary, or of any ecclesiastical court in England, or which shall be granted by any presbytery, or other ecclesiastical power, in Scotland - - - - -	2	0	0
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Exemptions from the preceding and all other Stamp Duties.

Licences to stipendiary curates in England, wherein the annual amount of the stipend shall be specified, and licences for the non-residence of clergymen upon their livings, where granted on the ground of there being no house or no fit house of residence thereon.

LICENCE to use and exercise the calling or occupation of an appraiser - - - - -	0	10	0
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To be taken out *yearly*, by every person who shall exercise the said calling or occupation, or make any appraisement or valuation, hereinbefore charged with a duty, for or in expectation of any gain, fee, or reward, except licensed auctioneers.

LICENCE to be taken out yearly by any banker or bankers, or other person or persons who shall issue any promissory notes for money payable to the bearer on demand, and allowed to be re-issued - - - - -	30	0	0
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LICENCE to be taken out yearly for using or exercising the trade or business of a pawnbroker, within the cities of London and Westminster, or within the limits of the twopenny post - - - - -	15	0	0
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And for using or exercising the trade or business of a pawnbroker elsewhere - - - - -	7	10	0
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LICENCE to exercise the faculty of physic.—See *Admission*.

LICENCE to act as a notary public.—See *Faculty*.

LICENCE to demise copyhold lands.—See *Copyhold*.

MARRIAGE LICENCE.—See *Licence*.

MATRICULATION in the universities.—See *Admission*.

MEMORIAL to be registered pursuant to any act of Parliament, made or to be made for the public registering of deeds and conveyances in England - - - - -	0	10	0
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And for every piece of vellum, parchment, or paper, upon which any such memorial shall be written, after the first, a further <i>progressive</i> duty of - - - - -	0	10	0
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MEMORIAL to be registered or enrolled pursuant to act of Parliament, of any deed or instrument, deeds or instruments, whereby any annuity shall be granted or secured in England - - - - -	1	0	0
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Stamps.

MEMORIAL—(Continued.)

£ s. d.

55 Geo. 3, c. 184.

And for every piece of vellum, parchment, or paper, upon which any such memorial shall be written, after the first, a further progressive duty of - - - - -

1 0 0

MORTGAGE, conditional surrender by way of mortgage, further charge, wadset, and heritable bond; disposition, assignation, or tack, in security; and eik to a reversion; of or affecting any lands, estate, or property, real or personal, heritable or moveable whatsoever.

Also any deed containing an obligation to infest any person in an annual rent, or in lands or other heritable subjects in Scotland, under a clause of reversion, but without any personal bond or obligation therein contained, for payment of the money or stock intended to be secured.

Also any conveyance of any lands, estate, or property whatsoever, in trust, to be sold or otherwise converted into money, which shall be intended only as a security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; except where such conveyance shall be made for the benefit of creditors generally, or for the benefit of creditors specified, who shall accept the provision made for payment of their debts, in full satisfaction thereof, or who shall exceed five in number;

Also any defeazance, letter of reversion, back bond, declaration, or other deed or writing for defeating or making redeemable, or explaining or qualifying any conveyance, disposition, assignation, or tack, of any lands, estate, or property whatsoever, which shall be apparently absolute, but intended only as a security;

Also any agreement, contract, or bond, accompanied with a deposit of title-deeds for making a mortgage, wadset, or any such other security or conveyance as aforesaid, of any lands, estate, or property comprised in such title-deeds, or for pledging or charging the same as a security;

And also any deed, whereby a real burden shall be declared or created on lands or heritable subjects in Scotland;

Where the same respectively shall be made, as a security for the payment of any definite and certain sum of money, advanced or lent at the time, or previously due and owing, or forborne to be paid, by being payable,

Not exceeding 50 <i>l</i> .	-	-	-	-	1	0	0
Exceeding 50 <i>l</i> . and not exceeding 100 <i>l</i> .	-	-	-	-	1	10	0
Exceeding 100 <i>l</i> . and not exceeding 200 <i>l</i> .	-	-	-	-	2	0	0
Exceeding 200 <i>l</i> . and not exceeding 300 <i>l</i> .	-	-	-	-	3	0	0
Exceeding 300 <i>l</i> . and not exceeding 500 <i>l</i> .	-	-	-	-	4	0	0
Exceeding 500 <i>l</i> . and not exceeding 1000 <i>l</i> .	-	-	-	-	5	0	0
Exceeding 1000 <i>l</i> . and not exceeding 2000 <i>l</i> .	-	-	-	-	6	0	0
Exceeding 2000 <i>l</i> . and not exceeding 3000 <i>l</i> .	-	-	-	-	7	0	0
Exceeding 3000 <i>l</i> . and not exceeding 4000 <i>l</i> .	-	-	-	-	8	0	0
Exceeding 4000 <i>l</i> . and not exceeding 5000 <i>l</i> .	-	-	-	-	9	0	0
Exceeding 5000 <i>l</i> . and not exceeding 10,000 <i>l</i> .	-	-	-	-	12	0	0
Exceeding 10,000 <i>l</i> . and not exceeding 15,000 <i>l</i> .	-	-	-	-	15	0	0
Exceeding 15,000 <i>l</i> . and not exceeding 20,000 <i>l</i> .	-	-	-	-	20	0	0
Exceeding 20,000 <i>l</i> .	-	-	-	-	25	0	0

And where the same respectively shall be made as a security for the re-payment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be; other than and except any sum or sums of money to be advanced for the insurance of any property comprised in such mortgage or security against damage by fire, or to be advanced for the insurance of any life or lives, pursuant to any agreement in any deed, whereby any annuity shall be granted or secured for such life or lives,

If the total amount of the money secured, or to be ultimately recoverable thereupon, shall be uncertain and without any limit 25 0 0

But if the total amount of the money secured, or to be ultimately recoverable thereupon, shall be limited } *The same duty as on a mortgage or wadset not to exceed a given sum - - - - - for such limited sum.*

MORTGAGE—(Continued)

And where the same respectively shall be made as a security for the transfer or re-transfer of any share in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East India Company, or of the South Sea Company, in consideration of stock or money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable

The same duty as on a mortgage or wadset for a sum of money equal to the value of the stock or fund secured, according to the average price thereof, on the day of the date of the mortgage or other instrument aforesaid, or on either of the ten days preceding.

£ s. d.
Stamps.
55 Geo. 3, c. 184.

And where the same respectively shall be made, as a security for the payment of a sum of money, and also for the transfer or re-transfer of a share in any of the said stocks or funds, the said *ad valorem* duty shall be charged in respect of each.

And in case the same respectively shall be made, as a security for the payment or transfer, to different persons, of separate and distinct sums of money, or shares in any of the said stocks or funds; the said *ad valorem* duty shall be charged for and in respect of each separate and distinct sum of money, or share in any of the said stocks or funds therein specified and secured, and not upon the aggregate amount thereof.

And where any such mortgage or wadset, or other instrument hereby charged with the same duty as a mortgage or wadset, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 0 0

MORTGAGE, &c. Any transfer or assignment, disposition or assignation, of any mortgage or wadset, or of any such other security as aforesaid, or of the benefit thereof, and of the money or stock thereby secured, in all cases where the person entitled to the right of redemption or reversion shall not be made a party to such transfer or assignment, disposition or assignation; and also where the person who originally made the mortgage, wadset, or other security, shall continue entitled to the right of redemption or reversion, and shall be made a party to such transfer or assignment, disposition or assignation; provided no further sum of money or stock be added to the principal money or stock already secured

1 15 0

And in all other cases, such transfer or assignment, disposition or assignation, shall be charged with

The same duty or duties as an original mortgage, wadset, or other security.

And where any such transfer or assignment, disposition or assignation, hereby charged with a duty of 1*l.* 15*s.*, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further and progressive duty of

1 5 0

Provided always, that where several distinct deeds or instruments falling within the description of any of the instruments hereby charged with the said *ad valorem* duty on mortgages and wadsets, shall be made at the same time for securing the payment or transfer of one and the same sum of money; or one and the same share of any of the stocks or funds before mentioned; the said *ad valorem* duty, if exceeding 2*l.*, shall be charged only on one of such deeds or instruments; and all the rest shall be charged with the duty to which the same may be liable, under any more general description of such deeds or instruments contained in this schedule; and if required for the sake of evidence, all the rest of such deeds or instruments shall be also stamped with some particular stamp, for denoting or testifying the payment of the said *ad valorem* duty, on all the said deeds or instruments being produced, duly stamped with the duties hereby charged thereon.

MORTGAGE—(Continued.)

£ s. d.

And where any copyhold or customary lands or hereditaments shall be mortgaged, by means of a conditional surrender or grant, the said *ad valorem* duty shall be charged on the surrender or grant, or the memorandum thereof, if made out of court; or on the copy of court roll of the surrender or grant, if made in court. And copies of court roll, made after the 31st day of August, 1815, of surrenders and grants made in court, before or upon that day, and subsequent to the 10th day of October, 1808, shall be charged with the said *ad valorem* duties. But copies of court roll, of surrenders, and grants, made before or upon the 10th day of October, 1808, shall not be liable thereto.

And where any copyhold or customary lands or hereditaments shall be mortgaged or charged, together with other property, for securing one and the same sum of money, or one and the same share of any of the stocks or funds before mentioned; the said *ad valorem* duty shall be charged on the deed or instrument relating to the other property.

And where there shall be duplicates of any deed or instrument, chargeable with the said *ad valorem* duty on mortgages and wadsets, exceeding 2*l.*, one of them only shall be charged therewith, and the other or others shall be charged with the duty to which the same may be liable, under any more general description in this schedule; and on the whole being produced, duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

Exemptions from the said ad valorem duty on mortgages, &c., but not from any other duty to which the same may be liable.

Any deed or other instrument made in pursuance of and conformably to any agreement, contract, or bond, charged with, and which shall actually have paid the said *ad valorem* duty, or the *ad valorem* duty on mortgages, granted by the act of the forty-eighth year of his majesty's reign before mentioned.

Any deed or other instrument made for the further assurance only of any estate or property, already mortgaged, pledged, or charged as a security, by any deed or instrument, which shall have paid the said *ad valorem* duty hereby charged, or the *ad valorem* duty on mortgages or heritable bonds, imposed by the act of the forty-fourth or the act of the forty-eighth year of his majesty's reign before mentioned.

Any deed or other instrument, made as an additional or further security for any sum or sums of money, or any share or shares of any of the stocks or funds before mentioned, already secured by any deed or instrument, which shall have paid the said *ad valorem* duty hereby charged, or the *ad valorem* duty on mortgages or heritable bonds, charged by the said act of the forty-fourth, or the said act of the forty-eighth year of his majesty's reign, to be exempt from the said *ad valorem* duty hereby charged, so far as regards each sum or sums of money, or such share or shares of any of the said stocks or funds before secured, in case such additional or further security shall be made by the same person or persons who made the original security; but if any further sum of money or stock shall be added to the principal money or stock already secured, or shall be thereby secured to any other person, the said *ad valorem* duty shall be charged in respect of such further sum of money or stock.

And if necessary, for the sake of evidence, the deeds and instruments hereby exempted from the said *ad valorem* duty shall be stamped with a particular stamp, for denoting or testifying the payment of the *ad valorem* duty, upon all the deeds and instruments relating to the particular transaction being produced, and appearing to be duly stamped with the duties to which they were liable.

MORTGAGE—(Continued.)

For general exemptions from the preceding and all other stamp duties, see the end of this part of the schedule.

MORTGAGE, wadset, &c., with a conveyance of the equity or right of redemption or reversion, or other matter in the same deed, viz.

Where any deed or writing shall operate as a mortgage or other instrument hereby charged with the *ad valorem* duty on mortgages, and also as a conveyance of the equity or right of redemption or reversion of any lands, estate, or property therein comprised, to or in trust for, or according to the direction of a purchaser, such deed or writing shall be charged not only with the said *ad valorem* duty on mortgages, but also with the *ad valorem* duty hereinbefore charged on a conveyance upon the sale of any property; but where the equity or right of redemption or reversion shall be thereby conveyed or limited in any other manner, such deed or writing shall be charged only as a mortgage;

And in all other cases where a mortgage or other instrument hereby charged with the *ad valorem* duty on mortgages shall be contained in one and the same deed or writing with any other matter or thing (except what shall be incident to such mortgage or other instrument), such deed or writing shall be charged with the same duties (except the progressive duty), as such mortgage or other instrument and such other matter or thing would have been separately charged with if contained in separate deeds or writings.

And where any such deed or writing, as is mentioned in the two preceding clauses, together with any shedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - (a)

£ s. d.

Stamps.

55 Geo. 3, c. 184.

MUTUAL DISPOSITION or conveyance in Scotland.—See *Exchange and Partition*.

NOMINATION by his majesty, his heirs, or successors, or by any other patron, to any perpetual curacy in England - - -

NOTARIAL act; any whatsoever not otherwise charged in this schedule

And for every sheet or piece of paper, parchment, or vellum, upon which the same shall be written, after the first, a further progressive duty of - - -

ORDER for the payment of money.—See *Bill of Exchange*.

PARTITION.—Any deed, whereby any lands or other hereditaments, or heritable subjects in England or Scotland, shall be conveyed, or any copyhold or customary lands or hereditaments in England shall be covenanted to be surrendered, in order to effect a partition or division thereof, among coparceners, joint-tenants, or tenants in common, heirs-portioners, conjux-fiars, or joint-proprietors of any sort,

If no sum of money, or only a sum under 300*l.* shall be paid, or agreed to be paid, for equality of partition or division; the ordinary duty of - - -

And if any sum or sums of money, amounting to 300*l.* or upwards, shall be paid, or agreed to be paid, for equality - *The same ad valorem duty as for a conveyance on the sale of lands, for a sum of money equal to the amount of the sum or sums so paid or agreed to be paid.*

And where any such deed of partition or division, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

If the deed be liable, in the first instance, to a duty of 1*l.* 15*s.*

Or if liable to a higher duty in the first instance - - -

And any duplicate of any such deed or partition or division shall be charged with the same duty or duties.

1 0 0

1 10 0

0 5 0

0 5 0

1 15 0

1 5 0

1 0 0

(a) See the 3 Geo. IV. c. 117.

Stamps.

55 Geo. 3, c. 184.

PARTITION—(Continued.)

And in case there shall be more than one deed, for completing the title to the estate or interest conveyed by either party, the principal deed only shall be charged under this head of partition; and any subordinate or collateral deed shall be charged with the duty to which it may be liable, under any other description in this schedule.

PASSPORT

PAWNBROKER'S Licence.—See *Licence*.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called; whereby any insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives,

Where the sum insured shall not amount to 500*l*. (a)

And where it shall amount to 500*l*. and not to 1000*l*.

And where it shall amount to 1000*l*. and not to 3000*l*.

And where it shall amount to 3000*l*. and not to 5000*l*.

And where it shall amount to 5000*l*. or upwards

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made of or upon any *building, goods, wares, merchandize, or other property (b), from loss or damage by fire only*, by any public company, or other person or persons, duly licensed, or who ought to be licensed, by the commissioners of stamps, pursuant to the act of the 22nd year of his majesty's reign, c. 48, or by the Royal Exchange or London Assurance Corporation

And for and in respect of every insurance from loss or damage by fire only, which shall, at any time after the 28th day of September, 1815, be made or renewed, or continued by any public company, or other person or persons licensed, or who ought to be licensed, as above mentioned, or by the Royal Exchange or London Assurance Corporation, a duty of 3*s*. for every 100*l*. insured for a year, and at and after that rate for any fractional part of 100*l*. insured, and for any fractional part of a year, as well as for any number of years for which the insurance shall be made or renewed, or continued; but no fraction of a penny shall be charged

£ s. d.

0 5 0

1 0 0

2 0 0

3 0 0

4 0 0

5 0 0

0 1 0

per centum
per ann.

0 3 0

Exemptions.

Insurances on public hospitals, and on property in any foreign kingdom or state in amity with his majesty, his heirs, or successors.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made, pursuant to the act of the 50th year of his majesty's reign, c. 35, by any person or persons, not being licensed pursuant to the said act of the 22nd year of his majesty's reign, of or upon any building, goods, wares, merchandize, or other property, situated and being in any of the islands, settlements, or territories belonging to or under the dominion of his majesty, his heirs, or successors, in the West Indies, or elsewhere beyond the seas, from loss or damage by fire, for any period of time not exceeding twelve calendar months

And also the further or additional duty following, *viz.*

If the whole sum insured shall not exceed 100*l*.

And if the whole sum insured shall exceed 100*l*, then for every 100*l*. and also for any fractional part of 100*l*. whereof the same shall consist

0 2 6

0 5 0

0 5 0

(a) By stat. 5 & 6 Wil. IV. c. 64, the stamp duties on policies of insurance on lives, not exceeding 100*l*., was repealed, and reduced duties granted in lieu thereof, *viz.*, for every policy whereby any insurance shall be made on any life or lives, or on any event or contingency relating to or depending on any life or lives, where the

sum named shall not exceed 50*l*., the duty of 2*s*. 6*d*.; and where it shall exceed 50*l*. and not exceed 100*l*., the duty of 5*s*.

(b) By the 3 & 4 Wil. IV. c. 23, s. 2, insurances on agricultural produce, farming stock, and implements of husbandry, are exempted from stamp duties.

£ s. d. Stamps.
55 Geo. 3, c. 184.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any goods, merchandize, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, for or upon any voyage from any port or place in the United Kingdom of Great Britain and Ireland, or in the islands of Guernsey, Jersey, Alderney, or Sark, or the Isle of Man, to any other port or place in the said kingdom or islands, or Isle of Man (a).

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20s. *per centum* on the sum insured,

If the whole sum insured shall not exceed 100*l.* - - - 0 1 3

And if the whole sum insured shall exceed 100*l.* then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist - - - 0 1 3

And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20s. *per centum* on the sum insured,

If the whole sum insured shall not exceed 100*l.* - - - 0 2 6

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist - - - 0 2 6

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 1*s.* 3*d.* or 2*s.* 6*d.*, as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.* as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any goods, merchandize, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, for or upon any other voyage than is hereinbefore specified, or for any certain term or period of time, not exceeding twelve calendar months.

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20s. *per centum* on the sum insured,

If the whole sum insured shall not exceed 100*l.* - - - 0 2 6

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist - - - 0 2 6

And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20s. *per centum* on the sum insured,

If the whole sum insured shall not exceed 100*l.* - - - 0 5 0

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist - - - 0 5 0

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 2*s.* 6*d.* or 5*s.*, as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.* as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance, commonly

(a) By 3 & 4 Wil. IV. c. 23, s. 1, 2, the new duties mentioned in the schedule the stamp duties on sea insurances in the schedule thereto annexed are granted. certain cases were repealed; and by sect.

Stamps.

55 Geo. 3, c. 184.

POLICY—(Continued.)

£ s. d.

called a mutual insurance, shall be made, or whereby divers persons shall insure, or agree to insure one another, without any premium or pecuniary consideration, from any loss, damage, or misfortune that may happen of or to any ship or vessel, or any goods, merchandize, or other property on board of any ship or vessel, or the freight of any ship or vessel, or any other interest in or relating to any ship or vessel which may lawfully be insured,

Upon any voyage from any port or place in the United Kingdom of Great Britain and Ireland, or in the islands of Guernsey, Jersey, Alderney, or Sark, or the Isle of Man, to any other port or place in the said kingdom or islands, or Isle of Man,

For every sum of 100*l.* and also for each and every fractional part of 100*l.* thereby insured to any person or persons - - -

0 2 6

Upon any other voyage whatsoever, or for any certain term or period of time not exceeding twelve calendar months,

For every sum of 100*l.* and also for each and every fractional part of 100*l.* thereby insured to any person or persons - - -

0 5 0

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any other lawful insurance whatsoever, not hereinbefore charged, shall be made upon any property or interest whatever, from loss or damage of any kind,

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20*s. per centum* on the sum insured,

If the whole sum insured shall not exceed 100*l.* - - -

0 2 6

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.*, and also for every fractional part of 100*l.* whereof the same shall consist - - -

0 2 6

And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20*s. per centum* on the sum insured; and also where the insurance shall be made for any other than a pecuniary consideration,

If the whole sum insured shall not exceed 100*l.* - - -

0 5 0

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.*, and also for any fractional part of 100*l.* whereof the same shall consist - - -

0 5 0

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 2*s. 6d.*, or 5*s.*, as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.*, as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest.

POWER of ATTORNEY.—See *Letter of Attorney*.

PRECEPT of clare constat, to give seisin of lands or other heritable subjects in Scotland - - -

0 9 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of -

0 9 0

PRESENTATION by his majesty, his heirs, or successors, or by any other patron,

To any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10*l.* or upwards in the king's books -

20 0 0

To any other ecclesiastical benefice, dignity, or promotion whatsoever, in England - - -

10 0 0

PROCURATION, deed or other instrument of - - -

1 10 0

And where the same, together with any schedule or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of - - -

1 0 0

PROMISSORY NOTE for the payment to the bearer, on demand, of any sum of money,

Not exceeding 1*l.* 1*s.* - - -

0 0 5

Exceeding 1*l.* 1*s.* and not exceeding 2*l.* 2*s.* - - -

0 0 10

PROMISSORY NOTE—(Continued.)

					£	s.	d.	Stamps.
Exceeding	2l. 2s. and not exceeding	5l. 5s.	-	-	0	1	3	
Exceeding	5l. 5s. and not exceeding	10l.	-	-	0	1	9	55 Geo. 3. c. 184.
Exceeding	10l. and not exceeding	20l.	-	-	0	2	0	
Exceeding	20l. and not exceeding	30l.	-	-	0	3	0	
Exceeding	30l. and not exceeding	50l.	-	-	0	5	0	
Exceeding	50l. and not exceeding	100l.	-	-	0	8	6	

Which said notes may be re-issued, after payment thereof, as often as shall be thought fit.

PROMISSORY NOTE for the payment, in any other manner than to the bearer on demand, but not exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40s. and not exceeding	5l. 5s.	-	-	0	1	0
Exceeding 5l. 5s. and not exceeding	20l.	-	-	0	1	6
Exceeding 20l. and not exceeding	30l.	-	-	0	2	0
Exceeding 30l. and not exceeding	50l.	-	-	0	2	6
Exceeding 50l. and not exceeding	100l.	-	-	0	3	6

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment either to the bearer on demand, or in any other manner than to the bearer on demand, but not exceeding two months after date, or sixty days after sight, of any sum of money,

Exceeding 100l. and not exceeding	200l.	-	-	0	4	6
Exceeding 200l. and not exceeding	300l.	-	-	0	5	0
Exceeding 300l. and not exceeding	500l.	-	-	0	6	0
Exceeding 500l. and not exceeding	1000l.	-	-	0	8	6
Exceeding 1000l. and not exceeding	2000l.	-	-	0	12	6
Exceeding 2000l. and not exceeding	3000l.	-	-	0	15	0
Exceeding 3000l.	-	-	-	1	5	0

These † notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment to the bearer or otherwise, at any time *exceeding* two months after date, or sixty days after sight, of any sum of money,

† The in printed act.

Amounting to 40s. and not exceeding	5l. 5s.	-	-	0	1	6
Exceeding 5l. 5s. and not exceeding	20l.	-	-	0	2	0
Exceeding 20l. and not exceeding	30l.	-	-	0	2	6
Exceeding 30l. and not exceeding	50l.	-	-	0	3	6
Exceeding 50l. and not exceeding	100l.	-	-	0	4	0
Exceeding 100l. and not exceeding	200l.	-	-	0	5	0
Exceeding 200l. and not exceeding	300l.	-	-	0	6	0
Exceeding 300l. and not exceeding	500l.	-	-	0	8	6
Exceeding 500l. and not exceeding	1000l.	-	-	0	12	6
Exceeding 1000l. and not exceeding	2000l.	-	-	0	15	0
Exceeding 2000l. and not exceeding	3000l.	-	-	1	5	0
Exceeding 3000l.	-	-	-	1	10	0

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment of any sum of money by instalments, or for the payment of several sums of money at different days or times, so that the whole of the money to be paid shall be definite and certain — *The same duty as on a promissory note, payable in less than two months after date for a sum equal to the whole amount of the money to be paid.*

And the following instruments shall be deemed and taken to be promissory notes, within the intent and meaning of this schedule: viz.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; if the same shall be made payable to the bearer, or to order, and if the same shall be definite and certain, and not amount in the whole to 20l.

And all receipts for money deposited in any bank, or in the hands of any banker or bankers, which shall contain any agreement or memorandum, importing that interest shall be paid for the money so deposited.

PROMISSORY NOTE—(Continued.)

55 Geo. 3, c. 184.

£ s. d.

Exemptions from the Duties on Promissory Notes.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; where the same shall not be made payable to the bearer or to order, and also where the same shall be made payable to the bearer or to order, if the same shall amount to 20*l.*, or be indefinite.

And all other instruments, bearing in any degree the form or style of promissory notes, but which in law shall be deemed special agreements, except those hereby expressly directed to be deemed promissory notes.

But such of the notes and instruments here exempted from the duty on promissory notes shall, nevertheless, be liable to the duty which may attach thereon, as agreements or otherwise.

Exemptions from the preceding and all other Stamp Duties.

All promissory notes for the payment of money, issued by the governor and company of the Bank of England.

PROTEST of any bill of exchange or promissory note, for any sum of money,

Not amounting to 20*l.* - - - - -

Amounting to 20*l.* and not amounting to 100*l.* - - - - -

Amounting to 100*l.* and not amounting to 500*l.* - - - - -

Amounting to 500*l.* or upwards - - - - -

PROTEST of any other kind - - - - -

And for every sheet or piece of paper, parchment, or vellum, upon which the same shall be written, after the first, a further progressive duty of - - - - -

PURCHASE-DEED. See *Conveyance* on the sale of lands, &c.

REAL BURDEN on lands in Scotland, deed creating. See *Mortgage, Disposition*.

RECEIPT or discharge, given for or upon the payment of money (a),

Amounting to 2*l.* and not amounting to 5*l.* (b) - - - - -

Amounting to 5*l.* and not amounting to 10*l.* - - - - -

Amounting to 10*l.* and not amounting to 20*l.* - - - - -

Amounting to 20*l.* and not amounting to 50*l.* - - - - -

Amounting to 50*l.* and not amounting to 100*l.* - - - - -

Amounting to 100*l.* and not amounting to 200*l.* - - - - -

Amounting to 200*l.* and not amounting to 300*l.* - - - - -

Amounting to 300*l.* and not amounting to 500*l.* - - - - -

Amounting to 500*l.* and not amounting to 1000*l.* - - - - -

Amounting to 1000*l.* or upwards - - - - -

And where any sum of money whatever shall be therein expressed or acknowledged to be received in full of all demands - - - - -

And any note, memorandum, or writing whatsoever, given to any person for or upon the payment of money, whereby any sum of money, debt, or demand, or any part of any debt or demand therein specified, and amounting to 2*l.* or upwards, shall be expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged or satisfied, or which shall import or signify any such acknowledgment, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for a sum of money, of equal amount with the sum, debt, or demand, so expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged or satisfied, within the intent and meaning of this schedule, and shall be charged with a duty accordingly.

And any receipt, or discharge, note, memorandum, or writing whatever, given to any person for or upon the payment of money,

(a) See, in general, 1 *Chit. Col. Stat.* s. 1, the stamp duties on receipts under 1008.

(b) But by the 3 & 4 Wil. IV. c. 23,

5*l.* are repealed.

RECEIPT—(Continued.)

£. s. d.

Stamps.

55 Geo. 3, c. 184.

which shall contain, import, or signify any general acknowledgment of any debt, account, claim, or demand, debts, accounts, claims, or demands, whereof the amount shall not be therein specified having been paid, settled, balanced, or otherwise discharged or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be received in full, or in discharge or satisfaction of any such debt, account, claim, or demand, debts, accounts, claims, or demands, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for the sum of 1000*l.* or upwards, within the intent and meaning of this schedule, and shall be charged with the duty of 10*s.* accordingly.

And all receipts, discharges, and acknowledgments of the description aforesaid, which shall be given for or upon payments made by or with any bills of exchange, drafts, promissory notes, or other securities for money, shall be deemed and taken to be receipts given upon the payment of money, within the intent and meaning of this schedule.

Exemptions from the preceding Duties on Receipts.

Receipts exempted from stamp duty by any act or acts relating to the assessed taxes.

Receipts or discharges given by the treasurer of the navy, for any money imprested to or received by him, for the service of the navy.

Receipts or discharges given by any agent, for money imprested to him, on account of the pay of the army or ordnance.

Receipts or discharges given by any officer, seaman, marine, or soldier, or their representatives respectively, for or on account of any wages, pay, or pension, due from the Navy Office, Army Pay Office, or Ordnance Office.

Receipts or discharges given for the consideration money, for the purchase of any share in any of the government and parliamentary stocks or funds, or in the stocks or funds of the governor and company of the Bank of England, or of the East India Company, or South-Sea Company, and for any dividend paid on any share of the said stocks or funds respectively.

Receipts or discharges given for any principal money or interest due on exchequer bills.

Receipts given for money deposited in the Bank of England, or in the Bank of Scotland, or Royal Bank of Scotland, or in the Bank of the British Linen Company in Scotland, or in the hands of any banker or bankers, to be accounted for on demand; provided the same be not expressed to be received of or by the hands of any other than the person or persons to whom the same is to be accounted for. But if with interest—
See *Promissory Note*.

Receipts or discharges written upon promissory notes, bills of exchange, drafts, or orders for the payment of money, duly stamped according to the laws in force at the date thereof; or upon bills of exchange drawn out of but payable in Great Britain.

Receipts or discharges given upon bills or notes of the governor and company of the Bank of England.

Letters by the general post, acknowledging the safe arrival of any bills of exchange, promissory notes, or other securities for money.

Receipts or discharges indorsed or otherwise written upon or contained in any bond, mortgage, or other security, or any conveyance, deed, or instrument whatever, duly stamped according to the laws in force at the date thereof, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

Stamps.

55 Geo. 3, c. 184.

RECEIPT—(Continued.)

£. s. d.

Releases or discharges for money, by deeds duly stamped according to the laws in force at the date thereof.

Receipts or discharges given for drawbacks or bounties upon the exportation of any goods or merchandize from Great Britain.

Receipts or discharges for the return of any duties of customs upon certificates of over entry.

Receipts or acknowledgments of payment indorsed upon any bills, orders, remittance-bills, or remittance-certificates, drawn by commissioned officers, masters, and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the act passed in the thirty-fifth year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

Receipts or acknowledgments of payment indorsed upon any bills, drawn pursuant to any former act or acts of parliament, by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

Receipts given solely for the duty on insurances against fire; and receipts given for the premium and duty on such insurances, to be liable only to the receipt duty in respect of the premium.

See also the general exemptions at the end of this part of the schedule.

RECOGNIZANCE, statute merchant, and statute staple, entered into as a security for the payment of any sum or sums of money, annuity or annuities, or for the transfer of any share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East India Company, or of the South Sea Company.

Where such payment or transfer shall not be already secured by a bond or mortgage, or by some other instrument hereby charged with the same duty as a bond or mortgage { *The same duty or duties as on a bond given for the like purpose in England.*

And where such payment or transfer shall be already secured as above mentioned

1 0 0

RECOGNIZANCE, statute merchant, and statute staple, entered into as a security for the performance of any covenant, contract, or agreement; or for the due execution of any office or trust; or for rendering a due account of money received or to be received; or for indemnifying any person or persons against any matter or thing

1 15 0

And where any such recognizance or statute as aforesaid, together with any schedule or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 5 0

REGISTER, or entry of the degree of a barrister at law, taken in either of the inns of court in England.—See *Admission*.

REGISTER or entry of degrees taken in the Universities of Great Britain.—See *Admission*.

RELEASE upon the sale of any property.—See *Conveyance*.

RELEASE and renunciation of lands or other property, real or personal, heritable or moveable, or of any right or interest therein; any deed or instrument of, not otherwise charged in this schedule, nor expressly exempted from all stamp duty

1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 5 0

RENUNCIATION upon the sale of any property.—See *Conveyance*.

RENUNCIATION of any right or interest in any property, otherwise than upon a sale.—See *Release*.

RESIGNATION; principal or original instrument of resignation, or

RESIGNATION—(*Continued.*)

£ s. d.

Stamps.

55 Geo. 3, c. 184.

service or cognition of heirs, or charter or seisin of any houses, lands, or other heritable subjects in Scotland, holding burgage, or burgage tenure - - - - - 0 9 0

RESIGNATION; instrument of resignation of any lands or other heritable subjects in Scotland, not of burgage tenure - - - - - 0 9 0

And, where any of the said instruments shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - - - 0 9 0

REVOCATION of any use or trust, uses or trusts, of or concerning any estate or property, real or personal, where made by any writing, not being a deed or will - - - - - 1 15 0

And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - - - 1 5 0

If made by deed. See *Deed*.

SCHEDULE, inventory, or catalogue of any lands, hereditaments, or heritable subjects, or of any furniture, fixtures, or other goods or effects; or containing the terms and conditions of any proposed sale, lease, or tack, or the conditions and regulations for the cultivation or management of any farm, lands, or other property, leased or agreed to be leased; or containing any other matter or matters of contract or stipulation whatsoever; which shall be referred to in or by, and be intended to be used or given in evidence as part of, or as material to, any agreement, lease, tack, bond, deed, or other instrument, charged with any duty in this schedule, but which shall be *separate* and distinct from, and not indorsed on or *annexed* to such agreement, lease, tack, bond, deed or other instrument - - - - - 1 5 0

And if the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - - - 1 5 0

Exemptions from the preceding and all other Stamp Duties.

Printed proposals, published by any corporation or company, respecting insurances, and which shall be referred to in or by any policy or instrument of insurance issued by such corporation or company.

SEISIN—Instrument of seisin given upon any charter, precept of clare constat, or precept from chancery, or upon any wadset, heritable bond, disposition, apprising, adjudication, or otherwise, of any lands or heritable subjects in Scotland, not of burgage tenure - - - - - 0 9 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of - - - - - 0 9 0

SETTLEMENT—Any deed or instrument, whether voluntary or gratuitous, or upon any good or valuable consideration, other than a *bonâ fide* pecuniary consideration, whereby any definite and certain principal sum or sums of money (whether charged or chargeable on lands or other hereditaments, or heritable subjects or not, or to be laid out in the purchase of lands or other hereditaments, or heritable subjects or not, and if charged or chargeable on lands or other hereditaments, or heritable subjects, whether to be raised at all events or not); or any definite and certain share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East India Company, or of the South-Sea Company, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, either in possession or reversion, either absolutely, or conditionally, or contingently, or for life, or other partial interest, or in any other manner whatsoever:

If such sum or sums of money, or the value of such share or shares in all or any of the said stocks or funds, or both, shall not amount to 1000*l.* - - - - - 1 15 0

	£	s.	d.	Stamps.
TRANSFER of any share or shares in the stock and funds of any other corporation, company, or society whatever, upon the sale thereof, or by way of mortgage or security. See <i>Conveyance, Mortgage.</i>				55 Geo. 3, c. 184.
TRANSFER of any share or shares in the stock and funds of any other corporation, company, or society whatever, not otherwise charged under the head of mortgage, or of conveyance upon the sale of any property	1	10	0	
TRANSFER upon the sale of any other property. See <i>Conveyance.</i>				
TRANSFER of mortgage, wadset, or other security. See <i>Mortgage.</i>				
WADSET. See <i>Mortgage.</i>				
WARRANT OF ATTORNEY (with or without a release of errors) to confess and enter up a judgment in any of his majesty's courts at Westminster, or in any of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster, and Durham; which shall be given as a security for the payment of any sum or sums of money, or for the transfer of any share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East-India Company, or of the South-Sea Company				The same duty as on a bond for the like purpose.
Save and except where such payment or transfer shall be already secured by a bond, mortgage, or other security, which shall have paid the <i>ad valorem</i> duty on bonds or mortgages imposed in this schedule, or by the act of the forty-fourth, or the act of the forty-eighth year of his majesty's reign before mentioned; and also except where the warrant of attorney shall be given for securing any sum or sums of money, for which the person giving the same shall be in custody under an arrest; and in those cases a duty of	1	0	0	
WARRANT or ORDER beneficial, under the sign manual of his majesty, his heirs, or successors, except where the same shall be for the service of the navy, army, or ordnance	1	10	0	
And where the same shall be for the service of the navy, army, or ordnance	0	12	6	
And where several persons shall be separately and distinctly (and not jointly) benefited by one warrant, the proper duty shall be charged in respect of each such person.				

General Exemptions from all Stamp Duties.

- All bonds, contracts, mortgages, conveyances, deeds and instruments whatever, exempted from stamp duty by the act of the seventeenth year of his majesty's reign, c. 53, or any other act or acts of parliament now in force, for promoting the residence of the parochial clergy, by making provision for building, repairing, or purchasing houses and other buildings, for the use of their benefices.
- All affidavits, contracts, mortgages, conveyances, deeds, and instruments whatever, exempted from stamp duty by the act of the forty-second year of his majesty's reign, c. 116, or any other act or acts of parliament now in force relating to the redemption and sale of the land-tax.
- All transfers of shares in the government or parliamentary stocks or funds.
- All grants, leases, and other conveyances and instruments, exempted from stamp duty by any act or acts of parliament now in force relating to the land revenues of the crown.
- All bonds, contracts, and assignments, relating to the transportation of convicts.

PART THE SECOND.

Containing the Duties on Law Proceedings.

- Which duties are to be paid and payable in England, for and in respect of every skin, sheet, or piece of vellum, parchment, or paper, upon which the several instruments, matters, and things herein charged shall be respectively written or printed; except where the duties are imposed according to the number of words therein contained, or are expressly charged in any other manner.
- And all the instruments, matters, and things herein charged with a duty in respect of every skin, sheet, or piece of vellum, parchment, or paper, upon which the

Stamps.

55 Geo. 3, c. 184.

same shall be written or printed, shall respectively be written or printed upon vellum, parchment, or paper, and in such and the same manner and form, as the like instruments, matters, or things, have been heretofore accustomed to be, or are now usually written or printed.

And where a court of law or equity is mentioned generally, the same shall be taken to mean not only the courts at Westminster, but also the several courts of law or equity of the great sessions in Wales, and in the counties palatine of Chester, Lancaster, and Durham, or elsewhere in England.

[N.B. *The matters in this schedule are repealed by the 5 Geo. IV. c. 41, in the schedule to that act, excepting the items following.*]

	Duty.		
	£.	s.	d.
EXEMPLIFICATION, under the seal of any of the said courts, of any record or proceeding therein - - - - -	3	0	0
II. PROCEEDINGS in the ecclesiastical courts, and in the high court of delegates, in ecclesiastical matters in England.			
EXEMPLIFICATION under the seal of any of the said courts, of any record or proceeding therein - - - - -	3	0	0
III. PROCEEDINGS in the courts of law and equity at Westminster, including the court of the duchy of Lancaster, and in other courts in England, and the offices belonging thereto, and also before the lord high chancellor, or the lord keeper, or commissioners for the custody of the great seal, in matters of bankruptcy and lunacy.			
EXEMPLIFICATION, under the seal of any court of law or equity whatever, of any record or proceeding therein (except exemplifications under the great seal charged in the first part of this schedule) -	3	0	0
GRANT of the custody of the person or estate of any lunatic - - - - -	2	0	0
INDENTURES or chirograph of a fine levied in any court, for each part or indenture - - - - -	0	10	0
WARRANT of attorney, not otherwise charged in the first part of this schedule - - - - -	1	0	0
WRIT of covenant for levying a fine - - - - -	2	0	0
WRIT of entry for suffering a common recovery - - - - -	2	0	0
WRIT of error - - - - -	1	0	0

General Exemptions from all Stamp Duties.

Warrants, mandates, or authorities, to commence, carry on, or to defend any actions, suits, or prosecutions in any court, where the debt, damage, or thing claimed or demanded, shall not amount to or be of the value of 40s.

Warrants, mandates, or authorities to commence, carry on, or defend any prosecutions or proceedings upon indictments, or upon any information, writ, or process, in the name of his majesty, his heirs or successors, or at the instance of the attorney-general of England, lord advocate of Scotland, or other officer legally authorized to prosecute or sue in the name or for the interest of his majesty, his heirs or successors.

But these exemptions are not to extend to informations in the nature of *quo warranto*, filed by his majesty's coroner and attorney in the Court of King's Bench; nor to informations in courts of equity, at the relation of private persons; nor to informations where any other person than his majesty, his heirs or successors, shall be entitled to any penalty or forfeiture, or any share thereof.

All proceedings for or on behalf of any person legally admitted to sue or defend in *forma pauperis*; and all proceedings of courts-martial; and all proceedings in criminal suits and prosecutions whatsoever.

All orders, decrees, and proceedings of or before any commissioners of sewers, and of or in the stannary courts in England.

All summonses, attachments, executions, and other proceedings in or issuing out of any of the courts established for the recovery of debts not exceeding 5*l.*, commonly called courts of requests, in England.

All warrants to sue and defend in the courts baron of any honours or manors in England, which hold pleas in actions or suits for any debt or damages not exceeding 5*l.*; and all complaints, summonses, executions, writs, and other proceedings in or issuing out of such courts.

All proceedings in the courts called, or commonly known by the name of, small debts courts in Scotland.

And all proceedings under the Scotch statute relative to the aliment of poor prisoners, or under the act of sederunt of the court of session in Scotland, relative to the liberation of prisoners on account of sickness.

Stamps.
55 Geo. 8, c. 184.

All petitions, proceedings, and copies, exempted from stamp duty by any act or acts of Parliament, relating to abuses of trusts for charitable purposes.

PART THE THIRD,

Containing the Duties on Probates of Wills and Letters of Administration ; on Confirmations of Testaments, testamentary and dative ; on Inventories to be exhibited in the Commissary Courts in Scotland ; and on Legacies out of real or personal, heritable, or moveable Estate ; and on Successions to personal or moveable Estates upon Intestacy.

PROBATE of a will, and letters of administration with a will annexed, to be granted in England ;

CONFIRMATION of any testament testamentary, or eik thereto, to be expedited in any commissary court in Scotland, where the deceased shall have died before or upon the 10th day of October, 1808, and subsequent to the 10th day of October, 1804 ;

INVENTORY to be exhibited and recorded in any commissary court in Scotland, of the estate and effects of any person deceased, who shall have died after the 10th day of October, 1808, and have left any testament or testamentary disposition of his or her personal or moveable estate and effects, or any part thereof ;

Where the estate and effects for or in respect of such probate, letters of administration, confirmation or eik respectively, shall be granted or expedited, or whereof such inventory shall be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, shall be—

			£.	s.
above the value of	20 <i>l.</i> and under the value of	100 <i>l.</i>	0	10
of the value of	100 <i>l.</i> and under the value of	200 <i>l.</i>	2	0
of the value of	200 <i>l.</i> and under the value of	300 <i>l.</i>	5	0
of the value of	300 <i>l.</i> and under the value of	450 <i>l.</i>	8	0
of the value of	450 <i>l.</i> and under the value of	600 <i>l.</i>	11	0
of the value of	600 <i>l.</i> and under the value of	800 <i>l.</i>	15	0
of the value of	800 <i>l.</i> and under the value of	1000 <i>l.</i>	22	0
of the value of	1000 <i>l.</i> and under the value of	1500 <i>l.</i>	30	0
of the value of	1500 <i>l.</i> and under the value of	2000 <i>l.</i>	40	0
of the value of	2000 <i>l.</i> and under the value of	3000 <i>l.</i>	50	0
of the value of	3000 <i>l.</i> and under the value of	4000 <i>l.</i>	60	0
of the value of	4000 <i>l.</i> and under the value of	5000 <i>l.</i>	80	0
of the value of	5000 <i>l.</i> and under the value of	6000 <i>l.</i>	100	0
of the value of	6000 <i>l.</i> and under the value of	7000 <i>l.</i>	120	0
of the value of	7000 <i>l.</i> and under the value of	8000 <i>l.</i>	140	0
of the value of	8000 <i>l.</i> and under the value of	9000 <i>l.</i>	160	0
of the value of	9000 <i>l.</i> and under the value of	10,000 <i>l.</i>	180	0
of the value of	10,000 <i>l.</i> and under the value of	12,000 <i>l.</i>	200	0
of the value of	12,000 <i>l.</i> and under the value of	14,000 <i>l.</i>	220	0
of the value of	14,000 <i>l.</i> and under the value of	16,000 <i>l.</i>	250	0
of the value of	16,000 <i>l.</i> and under the value of	18,000 <i>l.</i>	280	0
of the value of	18,000 <i>l.</i> and under the value of	20,000 <i>l.</i>	310	0
of the value of	20,000 <i>l.</i> and under the value of	25,000 <i>l.</i>	350	0
of the value of	25,000 <i>l.</i> and under the value of	30,000 <i>l.</i>	400	0
of the value of	30,000 <i>l.</i> and under the value of	35,000 <i>l.</i>	450	0
of the value of	35,000 <i>l.</i> and under the value of	40,000 <i>l.</i>	525	0
of the value of	40,000 <i>l.</i> and under the value of	45,000 <i>l.</i>	600	0
of the value of	45,000 <i>l.</i> and under the value of	50,000 <i>l.</i>	675	0
of the value of	50,000 <i>l.</i> and under the value of	60,000 <i>l.</i>	750	0
of the value of	60,000 <i>l.</i> and under the value of	70,000 <i>l.</i>	900	0
of the value of	70,000 <i>l.</i> and under the value of	80,000 <i>l.</i>	1050	0
of the value of	80,000 <i>l.</i> and under the value of	90,000 <i>l.</i>	1200	0
of the value of	90,000 <i>l.</i> and under the value of	100,000 <i>l.</i>	1350	0
of the value of	100,000 <i>l.</i> and under the value of	120,000 <i>l.</i>	1500	0
of the value of	120,000 <i>l.</i> and under the value of	140,000 <i>l.</i>	1800	0
of the value of	140,000 <i>l.</i> and under the value of	160,000 <i>l.</i>	2100	0

Stamps.

55 Geo. 3, c. 184.

INVENTORY—(Continued.)

of the value of 160,000 <i>l.</i> and under the value of 180,000 <i>l.</i>	2400	0
of the value of 180,000 <i>l.</i> and under the value of 200,000 <i>l.</i>	2700	0
of the value of 200,000 <i>l.</i> and under the value of 250,000 <i>l.</i>	3000	0
of the value of 250,000 <i>l.</i> and under the value of 300,000 <i>l.</i>	3750	0
of the value of 300,000 <i>l.</i> and under the value of 350,000 <i>l.</i>	4500	0
of the value of 350,000 <i>l.</i> and under the value of 400,000 <i>l.</i>	5250	0
of the value of 400,000 <i>l.</i> and under the value of 500,000 <i>l.</i>	6000	0
of the value of 500,000 <i>l.</i> and under the value of 600,000 <i>l.</i>	7500	0
of the value of 600,000 <i>l.</i> and under the value of 700,000 <i>l.</i>	9000	0
of the value of 700,000 <i>l.</i> and under the value of 800,000 <i>l.</i>	10,500	0
of the value of 800,000 <i>l.</i> and under the value of 900,000 <i>l.</i>	12,000	0
of the value of 900,000 <i>l.</i> and under the value of 1,000,000 <i>l.</i>	13,500	0
of the value of 1,000,000 <i>l.</i> and upwards	15,000	0

LETTERS OF ADMINISTRATION, without a will annexed, to be granted in England;

CONFIRMATION of any TESTAMENT dative, to be expedited in any commissary court in Scotland, where the deceased shall have died before or upon the 10th day of October, 1808, and subsequent to the 10th day of October, 1804;

INVENTORY to be exhibited and recorded in any commissary court in Scotland, of the estate and effects of any person deceased, who shall have died after the 10th day of October, 1808, without leaving any testament or testamentary disposition of his or her personal or moveable estate or effects, or any part thereof;

Where the estate and effects for or in respect of which such letters of administration or confirmation respectively shall be granted or expedited, or whereof such inventory shall be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, shall be

above the value of 20 <i>l.</i> and under the value of 50 <i>l.</i>	£	s.
of the value of 50 <i>l.</i> and under the value of 100 <i>l.</i>	0	10
of the value of 100 <i>l.</i> and under the value of 200 <i>l.</i>	1	0
of the value of 200 <i>l.</i> and under the value of 300 <i>l.</i>	3	0
of the value of 300 <i>l.</i> and under the value of 450 <i>l.</i>	8	0
of the value of 450 <i>l.</i> and under the value of 600 <i>l.</i>	11	0
of the value of 600 <i>l.</i> and under the value of 800 <i>l.</i>	15	0
of the value of 800 <i>l.</i> and under the value of 1000 <i>l.</i>	22	0
of the value of 1000 <i>l.</i> and under the value of 1500 <i>l.</i>	30	0
of the value of 1500 <i>l.</i> and under the value of 2000 <i>l.</i>	45	0
of the value of 2000 <i>l.</i> and under the value of 3000 <i>l.</i>	60	0
of the value of 3000 <i>l.</i> and under the value of 4000 <i>l.</i>	75	0
of the value of 4000 <i>l.</i> and under the value of 5000 <i>l.</i>	90	0
of the value of 5000 <i>l.</i> and under the value of 6000 <i>l.</i>	120	0
of the value of 6000 <i>l.</i> and under the value of 7000 <i>l.</i>	150	0
of the value of 7000 <i>l.</i> and under the value of 8000 <i>l.</i>	180	0
of the value of 8000 <i>l.</i> and under the value of 9000 <i>l.</i>	210	0
of the value of 9000 <i>l.</i> and under the value of 10,000 <i>l.</i>	240	0
of the value of 10,000 <i>l.</i> and under the value of 12,000 <i>l.</i>	270	0
of the value of 12,000 <i>l.</i> and under the value of 14,000 <i>l.</i>	300	0
of the value of 14,000 <i>l.</i> and under the value of 16,000 <i>l.</i>	330	0
of the value of 16,000 <i>l.</i> and under the value of 18,000 <i>l.</i>	375	0
of the value of 18,000 <i>l.</i> and under the value of 20,000 <i>l.</i>	420	0
of the value of 20,000 <i>l.</i> and under the value of 25,000 <i>l.</i>	465	0
of the value of 25,000 <i>l.</i> and under the value of 30,000 <i>l.</i>	525	0
of the value of 30,000 <i>l.</i> and under the value of 35,000 <i>l.</i>	600	0
of the value of 35,000 <i>l.</i> and under the value of 40,000 <i>l.</i>	675	0
of the value of 40,000 <i>l.</i> and under the value of 45,000 <i>l.</i>	785	0
of the value of 45,000 <i>l.</i> and under the value of 50,000 <i>l.</i>	900	0
of the value of 50,000 <i>l.</i> and under the value of 60,000 <i>l.</i>	1010	0
of the value of 60,000 <i>l.</i> and under the value of 70,000 <i>l.</i>	1125	0
of the value of 70,000 <i>l.</i> and under the value of 80,000 <i>l.</i>	1350	0
of the value of 80,000 <i>l.</i> and under the value of 90,000 <i>l.</i>	1575	0
of the value of 90,000 <i>l.</i> and under the value of 100,000 <i>l.</i>	1800	0
of the value of 100,000 <i>l.</i> and under the value of 120,000 <i>l.</i>	2025	0
	2250	0

INVENTORY—(Continued.)

		£	s.	Stamps.
of the value of 120,000 <i>l.</i> and under the value of 140,000 <i>l.</i>	140,000 <i>l.</i>	2700	0	55 Geo. 3, c. 184.
of the value of 140,000 <i>l.</i> and under the value of 160,000 <i>l.</i>	160,000 <i>l.</i>	3150	0	
of the value of 160,000 <i>l.</i> and under the value of 180,000 <i>l.</i>	180,000 <i>l.</i>	3600	0	
of the value of 180,000 <i>l.</i> and under the value of 200,000 <i>l.</i>	200,000 <i>l.</i>	4050	0	
of the value of 200,000 <i>l.</i> and under the value of 250,000 <i>l.</i>	250,000 <i>l.</i>	4500	0	
of the value of 250,000 <i>l.</i> and under the value of 300,000 <i>l.</i>	300,000 <i>l.</i>	5625	0	
of the value of 300,000 <i>l.</i> and under the value of 350,000 <i>l.</i>	350,000 <i>l.</i>	6750	0	
of the value of 350,000 <i>l.</i> and under the value of 400,000 <i>l.</i>	400,000 <i>l.</i>	7875	0	
of the value of 400,000 <i>l.</i> and under the value of 500,000 <i>l.</i>	500,000 <i>l.</i>	9000	0	
of the value of 500,000 <i>l.</i> and under the value of 600,000 <i>l.</i>	600,000 <i>l.</i>	11,250	0	
of the value of 600,000 <i>l.</i> and under the value of 700,000 <i>l.</i>	700,000 <i>l.</i>	13,500	0	
of the value of 700,000 <i>l.</i> and under the value of 800,000 <i>l.</i>	800,000 <i>l.</i>	15,750	0	
of the value of 800,000 <i>l.</i> and under the value of 900,000 <i>l.</i>	900,000 <i>l.</i>	18,000	0	
of the value of 900,000 <i>l.</i> and under the value of 1,000,000 <i>l.</i>	1,000,000 <i>l.</i>	22,250	0	
of the value of 1,000,000 <i>l.</i> and upwards	- - -	22,500	0	

Exemptions from all Stamp Duties.

Probate of will, letters of administration, confirmation of testament, and eik thereto, and inventory of the effects of any common seaman, marine, or soldier, who shall be slain or die in the service of his majesty, his heirs, or successors

Additional inventory to be exhibited and recorded in any commissary court in Scotland; where the same shall not be liable to a duty of greater amount than the duty already paid upon any former inventory exhibited and recorded of the estate and effects of the same person.

LEGACIES and SUCCESSIONS to personal or moveable estate upon intestacy.

I. Where the testator, testatrix, or intestate, died before or upon the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, given by any will or testamentary instrument of any person who died before or upon the 5th day of April, 1805, out of his or her personal or moveable estate, and which shall be paid, delivered, retained, satisfied, or discharged, after the 31st day of August, 1815.

Also for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person who died before or upon the 5th day of April, 1805, (after deducting debts, funeral expenses, legacies, and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged, after the 31st day of August, 1815.

Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 2*l.* 10*s.* per centum, on the amount or value thereof

Per cent.
2 10 0

Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased; a duty at and after the rate of 4*l.* per centum on the amount or value thereof

Per cent.
4 0 0

Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased, a duty at and after the rate of 5*l.* per centum on the amount or value thereof

Per cent.
5 0 0

And where any such legacy, or residue, or share of such residue

Stamps.

LEGACIES—(Continued.)

£ s. d.

55 Geo. 3, c. 184.

shall have been given, or have devolved, to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased, a duty at and after the rate of 8*l.* per centum on the amount or value thereof -

Per cent.
8 0 0

II. Where the testator, testatrix, or intestate, shall have died after the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, given by any will or testamentary instrument, of any person, who shall have died after the 5th day of April, 1805, either out of his or her personal or moveable estate, or out of or charged upon his or her real or heritable estate, or out of any moneys to arise by the sale, mortgage, or other disposition of his or her real or heritable estate, or any part thereof, and which shall be paid, delivered, retained, satisfied, or discharged after the 31st day of August, 1815;

Also, for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person, who shall have died after the 5th day of April, 1805, (after deducting debts, funeral expenses, legacies, and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged, after the 31st day of August, 1815;

And also for the clear residue (when given to one person) and for every share of the clear residue (when given to two or more persons) of the moneys to arise from the sale, mortgage, or other disposition, of any real or heritable estate directed to be sold, mortgaged, or otherwise disposed of, by any will or testamentary instrument, of any person, who shall have died after the 5th day of April, 1805, (after deducting debts, funeral expenses, legacies, and other charges first made payable thereout, if any) where such residue, or share of residue, shall amount to 20*l.* or upwards, and where the same shall be paid, retained, or discharged after the 31st day of August, 1815;

Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a child of the deceased, or any descendant of a child of the deceased, or to or for the benefit of the father or mother, or any lineal ancestor of the deceased; a duty at and after the rate of 1*l.* per centum on the amount or value thereof -

Per cent.
1 0 0

Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 3*l.* per centum on the amount or value thereof -

Per cent.
3 0 0

Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased; a duty at and after the rate of 5*l.* per centum on the amount or value thereof -

Per cent.
5 0 0

Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased; a duty at and after the rate of 6*l.* per centum on the amount, or value thereof -

Per cent.
6 0 0

And where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of

LEGACIES and SUCCESSIONS — (*Continued.*)

any stranger in blood to the deceased; a duty at and after the rate of 10*l.* per centum on the amount or value thereof

£ s. d.
Per cent.
10 0 0

Statutes.

55 Geo. 3, c. 184.

And all gifts of annuities, or by way of annuity, or of any other partial benefit or interest, out of any such estate or effects as aforesaid, shall be deemed legacies within the intent and meaning of this schedule.

And where any legatee shall take two or more distinct legacies or benefits, under any will or testamentary instrument, which shall together be of the amount or value of 20*l.*, each shall be charged with duty, though each or either may be separately under that amount or value.

Exemptions.

Legacies, and residues, or shares of residue, of any such estate or effects as aforesaid, given or devolving to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.

And all legacies which were exempted from duty by the act passed in the 39th year of Geo. III. c. 73, for exempting certain specific legacies given to bodies corporate, or other public bodies, from the payment of duty.

Standing Mute. See "Mute," Vol. III.

Starch. See "Exercise," Vol. II.

Starr. See "Bent," Vol. I.

Starving, Murder by, see "Apprentice," Vol. I. p. 184.

State, Acts of, how proved, see "Evidence," Vol. II. p. 44.—
Matters of, when privileged from being stated in Evidence, see "Evidence," Vol. II. p. 85.

Stationers. See "Almanack," Vol. I.; "Newspapers," Vol. III.;
"Printers," *ante*; "Stamps," *ante*.

Statute Duty. See "Highways in general," Vol. III.

Statutes.

IT is said by the elegant and able writer of the *Commentaries*, Vol. I. p. 57, Preliminary observations.
that the municipal law of England, or the rule of civil conduct prescribed to the inhabitants of this kingdom, may, with sufficient propriety, be divided into two kinds: viz. the *lex non scripta*, the unwritten or common law, and the *lex scripta*, the written or statute law.

COMMON LAW.]—The *lex non scripta*, or unwritten law, includes not only Common law.
general customs, or the *common law*, properly so called, but also the particular customs of certain parts of the kingdom, and likewise those *particular laws* that are by custom observed only in certain courts and jurisdictions. It is not to be supposed, however, that this *lex non scripta*, or common law, is not

Preliminary Observations.

Three kinds of.

(1.) Common law or general customs.

(2.) Particular customs.

Customs of merchants.

evidenced by written documents ; for a considerable portion of it is so. (See 1 *Bla. Com.* 57, 58.)

This unwritten or common law is distinguishable into three kinds : 1. *General Customs*, which are the universal rule of the *whole kingdom*, and form the common law, in its stricter and more usual signification. 2. *Particular Customs*, which, for the most part, affect only the inhabitants of particular districts. 3. *Certain particular Laws*, which by custom are adopted and used by some particular courts of petty, general, and exclusive jurisdiction. (1 *Bla. Com.* 67.)

1st. *As to General Customs, or the Common Law, properly so called.*]—This is that law by which proceedings and determinations in the king's ordinary courts of justice are guided and directed. Amongst other things, *Blackstone* observes, that this, for the most part, settles the solemnities and obligations of contracts ; the rules of expounding wills, deeds, and acts of Parliament ; the respective remedies of civil injuries ; the several species of temporal offences, with the manner and degree of punishment ; and an infinite number of minuter particulars, which diffuse themselves as extensively as the ordinary distribution of common justice requires. Thus, for example, amongst other things, that there shall be four superior courts of record—the Chancery, the King's Bench, the Common Pleas, and the Exchequer ; that a deed is of no validity unless sealed and delivered ; that breaking the peace is an offence, and punishable by fine and imprisonment, &c.

These customs and maxims are to be known, and their validity is to be determined, by the judges in the several courts of justice. They are the repositories of the law—the living oracles who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land. (1 *Bla. Com.* 69.)

The common law is as absolute as parliamentary law, and must be as rigidly observed.

2d. *As to Particular Customs, or Laws which affect only the Inhabitants of Particular Districts.*]—These are the remains of that multitude of local customs, out of which the common law, as it now stands, was collected at first by king Alfred, and afterwards by king Edgar and Edward the Confessor ; each district mutually sacrificing some of its own special usages, in order that the whole kingdom might enjoy the benefit of one uniform and universal system of laws. But, for reasons that have been now long forgotten, particular counties, cities, towns, manors, and lordships, were very early indulged with the privilege of abiding by their own customs, in contradistinction to the rest of the nation at large ; which privilege is confirmed to them by several acts of Parliament. (*Mag. Cart.* 9 Hen. III. c. 9 ; 1 Edw. III. st. 2, c. 9 ; 14 Edw. III. st. 1, c. 1 ; 2 Hen. IV. c. 1 ; 1 *Bla. Com.* 74.)

Such is the custom of gavelkind in Kent, and some other parts of the kingdom. Such is the custom that prevails in divers ancient boroughs, and therefore called borough-English, that the youngest son shall inherit the estate, in preference to all his elder brothers, &c. Such, also, are the special and particular customs of manors, of which every one has more or less, and which bind all the copyhold and customary tenants that hold of the said manors. Such, likewise, is the custom of holding divers inferior courts, with power of trying causes, in cities and trading towns, the right of holding which, when no royal grant can be shown, depends entirely upon immemorial and established usage. Such, lastly, are many particular customs within the city of London, with regard to trade, apprentices, widows, orphans, and a variety of other matters. All these are contrary to the general law of the land, and are good only by special usage ; though the customs of London are also confirmed by act of Parliament. (*City of London's case*, 8 Rep. 126 ; *R. v. Bagshaw*, Cro. Car. 347.)

To this head may most properly be referred a particular system of customs used only among one set of the king's subjects, called the custom of merchants, or *lex mercatoria* ; which, however different from the general rules of the common law, is yet ingrafted into it, and made a part of it, *Winch.*

24 ; being allowed, for the benefit of trade, to be of the utmost validity in all commercial transactions : for it is a maxim of law, that "*cuiuslibet in sua arte credendum est.*" (See *Vallezo v. Wheeler*, *Lofft.* 631 ; *Edin v. East India Company*, 1 *W. Bla.* 299 ; 2 *Burr.* 1216.)

The rules relating to particular customs regard either the *proof* of their existence, their *legality* when proved, or their usual method of *allowance*.

If the custom be not a good custom, it ought to be no longer used : "*malus usus abolendus est*" is an established maxim of the law. To make a particular custom good, the following are necessary requisites : What requisite to a good custom.

1. *That it have been used so long, that the memory of man runneth not to the contrary.* So that, if any one can show the beginning of it, it is no good custom. Beyond memory.

For which reason, no custom can prevail against an express act of Parliament ; since the statute itself is a proof of a time when such a custom did not exist. (*Co. Lit.* 114.) A custom that every pound of butter sold in a certain market should weigh eighteen ounces, is bad, because it is directly contrary to the 13 & 14 *Car. II.* c. 26 ; which directs that every pound throughout the kingdom shall contain sixteen ounces. (*Noble v. Durell*, see 3 *T. R.* 271.) (a) In which case, it seemed to be the opinion of the judges, that a custom to sell *lumps* of butter, containing eighteen or any other stated number of ounces, might be good and valid. The inconvenience arises from that which is every where called a pound being different in amount of weight in different parts of the kingdom, by which fraud and deception may be readily practised. Therefore, where a contract is made to sell specified goods by quantities of weight or measure, this must mean *statute* weight or measure. (See *Hockin v. Cooke*, 4 *T. R.* 314 ; *Master, &c., of St. Cross, v. Lord Howard de Walden*, 6 *T. R.* 338 ; *Moller v. Living*, 4 *Taun.* 102 ; *Law v. Hodson*, 11 *East*, 300.)

Where a parish contained within itself a borough not co-extensive with it, and the mayor of the borough, on a return to a mandamus for allowing a poor rate made by the churchwardens and overseers of the whole parish, stated a custom which had existed since the 43 *Eliz.* c. 2, of appointing separate churchwardens and overseers, and of making separate rates for the borough, and for those parts of the parish which lay without the borough ; it was holden that such custom was invalid, and the return was quashed accordingly. (*R. v. Gordon*, 1 *B. & Ald.* 524.)

The memory of man is taken in law to run to the beginning of the reign of Richard I. ; consequently, if it can be shown that the custom commenced at any time since, or did not exist before, that period, it is invalid. But a regular usage for twenty years, unexplained and uncontradicted, is sufficient to warrant a jury in finding an immemorial custom. (*R. v. Joliffe*, 2 *B. & C.* 54, 3 *D. & R.* 240, *S. C.* ; *Bealey v. Shaw*, 6 *East*, 214 ; 2 *Saund.* 175, *a. d.* ; *Peake's Evid.* 336.) What is time immemorial.

The recent statute of 2 & 3 *Wil. IV.* c. 71, shortens the time of *Prescription* in certain cases. Prescription act, 2 & 3 *Wil.* 4, c. 71.

By sect. 1, claims to the right of common and other profits, *aprendre*, are not to be defeated after *thirty* years' enjoyment, by showing the commencement ; and after *sixty* years' enjoyment, the right is to be deemed absolute, unless had by consent or agreement.

By sec. 2, in claims of right of way or other easement, the periods are to be twenty years and forty years.

By sec. 3, a claim to the use of light enjoyed for twenty years shall be indefeasible, unless shown to have been by consent.

By sec. 4, the before-mentioned periods are to be deemed those next before suits for the claims to which such periods relate.

By sec. 5, in actions on the case, the claimant may allege his right gene-

(a) Query whether a custom to demise by parol an incorporeal hereditament (for instance, a right of common) can be supported at law. (*Lathbury v. Arnold*, 1 *Bingh.* 219 ; 8 *Moore*, 72, *S. C.* ; and see *R. v. Lane*, 1 *D. & Ry.* 76 ; 5 *B. & Ald.* 488, *S. C.*)

Preliminary
Observations.

rally as at present. In pleas of trespass and other pleadings, where the party used to allege his claim from time immemorial, the period mentioned in this statute may be alleged, and the exceptions or other matters may be replied specially.

Sec. 6, restrains the presumption to be allowed in support of claims thereinbefore provided for.

Sec. 7, contains a proviso as to infants and others.

Sec. 8, contains a proviso as to certain time being included in computing the term of forty years, appointed by the act.

Must have been
uninterrupted.

2. *It must have been continued.* Any interruption would cause a temporary ceasing: the revival gives it a new beginning, which will be within time of memory, and thereupon the custom will be void. But this must be understood with regard to an interruption of the *right*; for an interruption of the *possession* only, for ten or twenty years, will not destroy the custom. (*Co. Lit.* 114.) As, if the inhabitants of a parish have a customary right of watering their cattle at a certain pool, the custom is not destroyed though they do not use it for ten years; it only becomes more difficult to prove: but if the *right* be any how discontinued for a day, the custom is quite at an end.

Immemorial acquiescence necessary.

3. *It must have been peaceable, and acquiesced in*; not subject to contention and dispute. (*Id.*) For, as customs owe their original to common consent, their being immemorially disputed, either at law or otherwise, is a proof that such consent was wanting. (1 *Bla. Com.* 77.)

Must not be unreasonable.

4. *Customs must be reasonable*, *Lit. s.* 212, or, rather, taken negatively, they must not be unreasonable. Which is not always, as Sir *Edward Coke* says, 1 *Inst.* 62, to be understood of every unlearned man's reason, but of artificial and legal reason, warranted by authority of law. Upon which account, a custom may be good, though the particular reason of it cannot be assigned; for it sufficeth if no good legal reason can be assigned against it. Thus, a custom in a parish that no man shall put his beasts into the common till the 3rd of October would be good; and yet it would be hard to show the reason why that day in particular is fixed upon, rather than the day before or after. But a custom that no cattle shall be put in till the lord of the manor has first put in his, is unreasonable, and therefore bad: for, peradventure, the lord will never put in his, and then the tenants will lose all their profits. (*Co. Copyhold*, s. 33.)

A custom that tenants, whether by parol or deed, shall have the away going crop after the expiration of their terms, is good. (*Wylesworth v. Dallison*, 1 *Doug.* 201; and see 1 *Bligh*, 287.)

So is a custom that a tenant may leave his away going crop in the barn, &c., after he has quitted the premises. (*Beavan v. Delahay*, 1 *H. Bla.* 5; *Lewis v. Harris*, *Id.* 7 n.)

A custom "that all the inhabitants of a manor shall grind all their corn, grain, and malt, which by them or any of them shall be used or spent on the ground within a manor, at a certain mill," is good. (*Cort v. Birkbeck*, 1 *Dougl.* 218.)

A custom "that all the tenants, resiants, and inhabitants, within a manor, should grind at the lord's mill all their corn and grain, as well growing within the manor as brought from other places, and spent or consumed in a ground state in their respective houses, within the manor," may be a good custom; but it does not extend to restrain the inhabitants who do not grow corn or grain, or who have no corn and grain of their own, from buying or using in such houses ground corn or flour, though it may not have been ground or grown within the manor, but produced from corn ground at other mills. (*Richardson v. Walker*, 4 *D. & R.* 498; 2 *B. & C.* 827, S. C.)

And where by the custom of a manor, all the tenants, resiants, and inhabitants, within the manor, were bound to grind all their corn, grain, and malt, as well growing within the manor, as brought from other places, and which after the grinding thereof should be spent or consumed in a ground state in their houses, at two ancient mills belonging to the lord,

or one of them at their own option, and the lord having pulled down one of the mills so as to deprive the tenants of their option, it was held that the custom was suspended. (*Richardson v. Capes*, 4 D. & R. 512; 2 B. & C. 841.)

In an action upon the case upon a custom for not grinding at plaintiff's mills, plaintiff may declare generally upon a custom for a certain toll without specifying the particular toll, or the consideration for it, or that it is a reasonable toll, and a continuance of uniform payment and acquiescence is evidence of its reasonableness, and the court shall judge, under all the circumstances, what is reasonable. (*Gard v. Callard*, 6 M. & Sel. 69.)

A custom by which the town crier has an exclusive privilege of ringing a bell at all sales by auction within the town, is good. (*Jones v. Waters*, 1 Crom. M. & R. 713; 1 Gale Rep. 5.)

A custom is void which is unreasonable, uncertain, savours too much of arbitrary power, and tends to make a lord of a manor a judge in his own cause. (*Wilkes v. Broadbent*, 1 Wils. 63.)

A custom to take profits in *alieno suo* is bad. (*Blewitt v. Tregonning*, 1 H. & W. 431); but a custom to an easement in *alieno suo* may be good. (*Fitch v. Rawlings*, 2 H. Bla. 393; *Pain v. Patrick*, 3 Mod. 293.)

It is no objection to a custom that it is not conformable to the common law of the land. (*Horton v. Beckman*, 6 T. R. 760, 764; and see *Hardy v. Holliday*, 4 T. R. 718, n.) But the usage of a particular place cannot vary the general law. (*R. v. Saltern*, Cald. 444.)

5. *Customs ought to be certain.* A custom, that lands shall descend to the most worthy of the owner's blood, is void; for how shall this worth be determined? But a custom to descend to the next male of the blood, exclusive of females, is certain, and therefore good. (*Roll. Abr.* 565.) Or uncertain.

A custom to pay 2d. an acre in lieu of tithes, is good; but to pay sometimes 2d. and sometimes 3d., as the occupier of the land pleases, is bad for its uncertainty. Yet a custom to pay a year's improved value for a fine on a copyhold estate, is good; though the value is a thing uncertain: for the value may at any time be ascertained; and the maxim of law is, *id certum est quod certum reddi potest*, *Id.*

A custom, that poor housekeepers shall carry away rotten wood in a chase is bad, being too vague and uncertain. (*Selby v. Robinson*, 2 T. R. 758.)

So is a custom for the inhabitants of a parish to take from a private close which adjoins the sea, sand drifted there, for manure. (*Blewitt v. Tregonning*, 1 H. & W. 431.)

A right to glean in the harvest cannot be claimed at common law; neither have the poor of a parish legally settled as such any such right within the parish. (*Steel v. Houghton*, 1 Hen. Bla. 51, 52. See, ante, "Gleaning," Vol. II.)

So is a custom for every *inhabitant* of an ancient messuage within a parish to take a profit *a prendre* in the land of an individual bad. But such a right may be enjoyed by prescription or grant. (*Grinstead v. Marlowe*, 4 T. R. 717, 718; *Fitch v. Rawlings*, 2 Hen. Bla. 393; *Weekly v. Wildman*, 1 Ld. Raym. 407; 1 Saun. 341, n. 3; 346, n. (3).)

A custom to take sand drifted by the sea is bad. (*Blewitt v. Tregonning*, 5 Nev. & M. 234, 308; 1 Harr. & W. 431.)

A custom for all the *inhabitants* of a parish to play "at all kinds of lawful games, sports, and pastimes in the close of A. at all seasonable times of the year, at their free will and pleasure," is good; but a similar custom "for all persons for the time being, being in the said parish," is bad. (*Fitch v. Rawlings*, 2 H. Bla. 393.)

A custom may be to do a thing several ways, if not inconsistent. (*Anon. Lofft*, 398.)

6. *Customs, though established by consent, must be (when established) compulsory*; and not left to the option of every man, whether he will use them or no. Therefore, a custom, that all the inhabitants shall be rated toward the maintenance of a bridge, will be good; but a custom, that every man is to contribute thereto at his own pleasure, is idle and absurd, and indeed no custom at all. Must be compulsory.

Preliminary Observations.

And consistent with each other. *

Must be construed strictly.

7. *Lastly, customs must be consistent with each other*: one custom cannot be set up in opposition to another; for, if both are really customs, then both are of equal antiquity, and both established by mutual consent: which to say of contradictory customs is absurd. Therefore, if one man prescribes that by custom he has a right to have windows looking into another's garden, the other cannot claim a right by custom to stop up or obstruct those windows; for these two contradictory customs cannot both be good, nor both stand together. He ought rather to deny the existence of the former custom. (*Aldred's Case*, 9 Rep. 58; 1 Bla. Com. 78.)

Next, as to the allowance of special customs. Customs in derogation of the common law must be construed strictly. Thus, by the custom of gavel-kind, an infant of fifteen years may, by one species of conveyance (called a deed of feoffment), convey away his lands in fee simple, or for ever. Yet this custom does not empower him to use any other conveyance, or even to lease them for seven years; for the custom must be strictly pursued. (*Co. Cop. s. 33.*) And, moreover, all special customs must submit to the king's prerogative. Therefore, if the king purchases lands of the nature of gavel-kind, where all the sons inherit equally; yet, upon the king's demise, his eldest son shall succeed to those lands alone. (*Co. Lit. 15*; 1 Bla. Com. 78.)

And thus much for the second part of the *leges non scriptæ*, or those particular customs which affect particular persons or districts only.

(3.) Peculiar laws used in particular courts, are the civil and canon laws.

3. *As to those peculiar laws which by custom are adopted and used only in certain peculiar courts and jurisdictions, they are to be understood as the civil and canon laws.* (See 1 Bla. Com. 79.)

Statute law.

[STATUTE LAW.]—We will now proceed as to the statute law, or, in other words, the *leges scriptæ*; which consist of statutes, acts, or edicts made by the king's majesty, by and with the advice and consent of the lords spiritual and temporal and commons in Parliament assembled. (1 Bla. Com. 78(a); *Com. Dig. Parliament, R. 3.*)

Statutes not in the name of the whole legislature.

Many ancient statutes are penned in the form of charters, ordinances, commands, or prohibitions from the king, without mentioning the concurrence of either lords or commons; yet, inasmuch as they have always been acquiesced in as unquestionably authentic, this establishes and confirms their authority, and the defect is salved by such universal reception. (*Hawkins's Preface to Statutes.*)

As regards the making of these statutes, see 1 Bla. Com. *Parliament*; *Com. Dig. Parliament*; *Bac. Ab. Statutes*. We will now proceed to inquire into

- I. *The different Kinds of Statutes*, p. 855
- II. *What Statutes are void*, p. 857.
- III. *Time when Statute begins to take effect, and how long it remains in force*, p. 858.
- IV. *When the King shall be bound by*, p. 860.
- V. *Things incidental to, and necessarily implied in Statutes*, p. 860.
- VI. *Construction of Statutes*, p. 864.
- VII. *Repeal of Statutes, what shall be, and effect of*, p. 872.
- VIII. *How disobedience to may be punished, &c.*, p. 875.
- IX. *Of Pleading a Statute, and Proof of*, p. 876.

(a) The oldest statute now extant, and printed in our statute books, is the famous *Magna Charta*, as confirmed in Parliament, 9 Hen. III.; though, doubtless, there were many acts before that time.

I. The different Kinds of Statutes.

PUBLIC OR PRIVATE STATUTES.]—Statutes are either general or special, public or private. Either public, general, or private.

A *general* or *public* act is an universal rule, that regards the whole community; and of this the courts of law are bound to take notice judicially and *ex officio*; without the statute being particularly pleaded, or formally set forth by the party who claims an advantage under it. (1 *Bla. Com.* 85.) Public acts, what.

Special or *private* acts are rather exceptions than rules, being those which only operate upon particular persons and private concerns: such as the Romans entitled *senatus-decreta*, in contradistinction to the *senatus consulta*, which regarded the whole community; and of these (which are not promulgated with the same notoriety as the former) the judges are not bound to take notice, unless they be formally shown and pleaded. Private acts, what.

Statutes may also be *local*, or referring to the interests of a particular place or district: such as road and inclosure acts, canal acts, or acts for town regulation. All such acts contain a clause by which they shall be deemed public acts. As to such clause see *post*, 856, and "*Evidence*," Vol. II., p. 43. Local.

To show the distinction between public and private acts, it should be observed, that the 13 Eliz. c. 10, to prevent spiritual persons from making leases for longer terms than twenty-one years, or three lives, is a public act; it being a rule prescribed to the whole body of spiritual persons in the nation: but an act to enable the Bishop of Chester to make a lease to A. B. for sixty years is an exception to this rule; it concerns only the parties and the bishop's successors; and is therefore a private act. (1 *Bla. Com.* 86.) Instances.

All acts which concern the king or queen, or the prince, are general and public acts. (8 *Co.* 28 a.; *the Prince's Case*, 4 *Rep.* 13, 77 a.)

So, a statute which concerns the whole spirituality, will be a general and public act: as the 21 Hen. VIII. c. 13. (*Holland's Case*, 4 *Rep.* 76 a; *Brownl.* 208.)

So, a statute which concerns all officers in general, as the 21 Wil. I. c. 26, that no sheriff or other minister take reward, &c. (*Holland's Case*, 4 *Rep.* 76 a.)

So, a statute which concerns trade in general. (*Holland's Case*, 4 *Rep.* 76 b.; *Lutw.* 1410; *Kirk v. Nowill*, 1 *T. R.* 125.)

So, a statute by which penalties are given to the king, as the 2 P. & M. c. 11, relating to woollen weavers, &c. (*Skin.* 429.)

So, a statute which concerns all the lords generally, as the stat. *Marl.* 3. *Holland's Case*, 4 *Rep.* 76 b.

So, if it concerns all persons generally, though it be but a special or particular thing: as, a statute which concerns appeals or assizes, or other particular action. (*Id.*)

A statute which concerns only a particular species or thing, or person, will be a private act, of which the judges will not take notice without pleading it: as, the 18 Eliz. c. 6, touching the colleges only in the universities. (*Eton and Winchester*, 4 *Rep.* 76 a.)

In a private act of parliament, the legislature only lends its aid to the agreement of the parties, in order to render it effectual when any public reason stands in the way. (By *Ld. Mansfield*, C. J., *R. v. Toms*, *Dougl.* 406.)

It is a rule, that private acts of parliament, introduced only for the settlement of particular estates, ought to be considered only as common conveyances, and directed by the same rules of law. (By *Ld. Hardwicke*, C. J., *Hornby v. Houlditch*, 1 *T. R.* 93, n. a.; *Lucy v. Levington*, 1 *Vent.* 176; and see *Eton College v. Bishop of Winchester*, *Lofft*, 401.)

So, a statute which relates to a particular place or town, will be a private law, though it concerns all persons: as, if it relates to such a manor, town, &c. (4 *Rep.* b.; *Skin.* 350.)

1. *The different
Kinds of Sta-
tutes.*

So, if it relates to a particular trade. (*Holland's case*, 4 Rep. 76; *Kirk v. Nowell*, 1 T. R. 125.)

Or to divers particular towns. (*Holland's case*, 4 Rep. 76 b.)

Or to one or divers particular counties. (*Id.*)

So, in a general act there may be a private clause; as in the 3 Jac. c. 5, the clause which gives the benefices of recusants in such particular counties to the university, is a private law. (*Case of the Chancellor of the University of Oxford*, 10 Rep. 57 b.)

A canal act is not rendered a public act by containing provisions empowering the company to regulate and take tonnage rates and tolls from persons using the canal. (*Brett v. Beales*, 1 M. & M. C. N. P. 425.)

A private act of parliament containing a clause, "that it shall be deemed and taken to be a public act, and shall be judicially taken notice of without being specially pleaded, may be proved in the same manner as public acts, (and as to which see "*Evidence*," Vol. II. p. 43,) though it may not have the effect of a public act." (*Beaumont v. Mountain*, 10 Bingh. 404; *Woodward v. Cotton*, 1 Crom. M. and Ros. 44; 4 Tyrwhitt, 689, S. C.; *Brett v. Beales*, N. & M. 421; 3 B. & P. 565; 8 T. R. 468.)

Declaratory sta-
tutes, what.

DECLARATORY OR REMEDIAL STATUTES.]—Statutes also are either *declaratory* of the common law, or *remedial* of some defects therein.

Declaratory, where the old custom of the kingdom is almost fallen into disuse, or become disputable; in which case the parliament has thought proper, *in perpetuum rei testimonium*, and for avoiding all doubts and difficulties, to declare what the common law is and ever hath been. Thus, the statute of treasons, 25 Edw. III. c. 2, doth not make any new species of treasons, but only, for the benefit of the subject, *declares* and enumerates those several kinds of offence which were before treason at the common law. (1 Bla. Com. 86.)

So, the 46 Geo. III. c. 37, *declares* that a witness cannot *by law* refuse to answer a question relevant to the matter in issue, the answering which has no tendency to accuse himself or expose him to penalty or forfeiture, though his answer may subject him to a civil action. This statute does not profess to introduce a *new* law, but only *declares* what is the existing law, in consequence of the contrariety of opinions delivered by the judges. (See "*Evidence*," Vol. II. p. 107.)

The word *declare* in the act expounds what was the common law before. (*Twynne's case*, 3 Rep.)

Remedial sta-
tutes, what.

Remedial statutes are those which are made to supply such defects, and abridge such superfluities, in the common law, as arise either from the general imperfection of all human laws, from change of time and circumstances, from the mistakes and unadvised determinations of unlearned (or even learned) judges, or from any other cause whatsoever.

Enlarging and
restraining sta-
tutes, what.

And this being done, either by enlarging the common law where it was too narrow and circumscribed, or by restraining it where it was too lax and luxuriant, hath occasioned another subordinate division of remedial acts of parliament into enlarging and restraining statutes. Instance the case of treason, in clipping the current coin of the kingdom, which was an offence not sufficiently guarded against by the common law; therefore it was thought expedient, by the 5 Eliz. c. 11, to make it high treason, which it was not at the common law: so that this was an enlarging statute. At common law, also, spiritual corporations might lease out their estates for any term of years, till prevented by the 13 Eliz. before mentioned: this was, therefore, a restraining statute.

In legal language a *remedial* statute has a further signification, viz. a statute giving a party a mode of remedy for a wrong where he had none or a different one before: *e. g.* the statutes of hue and cry: (now repealed by, but most of the enactments re-enacted by, the 7 & 8 Geo. IV. c. 31.) These statutes neither enlarged nor abridged the common law, and therefore neither supplied its defects or restrained its excesses; but, as the common law itself originally provided for an exigency, so did the statute. Of such a descrip-

tion, namely, remedial, is the giving the owner a right to recover the stolen thing of the person who may have purchased it, provided such owner shall have proceeded to conviction. So, also, the statutes against gaming, which give the loser a right to recover the money lost. (1 *Bla. Com. by Lee*, p. 87, n. (34.)

A penal statute may also be a remedial law. (*Sir W. Wynne v. Middleton*, 1 *Wils.* 126.)

Statute penal as
ws rem edial.

And a statute may be penal in one part and remedial in another part. (*Dougl.* 702.)

Where a statute gives accumulated damages to the party grieved it is not penal. (*Woodgate v. Knatchbull*, 2 *T. R.* 154.)

The statute 4 Geo. II. c. 28, s. 1, is, it seems, a remedial law (*Wilkinson v. Colley*, 5 *Burr.* 2694,) though this was denied by *Ld. Ellenborough*, C. J. in *Lloyd v. Rosbee*, 2 *Camp.* 454.

The 11 Geo. II. c. 19, is a remedial and not a penal act. (*Stanley v. Wharton*, 9 *Price*, 304.)

The 24 Geo. II. c. 44, is not a penal act. (*Joy v. Orchard*, 2 *B. & P.* 39.)

A statute for suppression of wrong, or for public good, shall be construed like a remedial act, though it be penal against the offenders. (*Pl. Com.* 82 a, 17 a.)

It is questionable whether the 21 Geo. III. c. 37, prohibiting the exportation of British machinery, is remedial or penal. (*Att. Gen. v. Jefferys*, *McCl.* 270; 13 *Price*, 545.)

PENAL STATUTES.]—Penal statutes are made on various occasions to punish and deter offenders. (As to the construction of them, see *post*, 868.)

Penal statutes.

Where a thing is prohibited under a penalty, if the penalty, or part of it, be not given to him who will sue for the same, it goes and belongs to the king. (*Rast. Entr.* 433; 2 *Hawk. P. C.* c. 26, s. 17.) The king cannot grant to any person any penalty or forfeiture, &c., due by any statute, before judgment thereupon had. Stat. 21 Jac. I. c. 3. Though after plea pleaded, justices of assize, &c., having power to hear and determine offences done against any penal statute, may compound the penalties with the defendant, by virtue of the king's warrant or privy seal. (See "**Compounding**," Vol. I.)

Where penalties are ordained by penal acts of parliament to be recovered in any court of record, this is to be understood only of the courts at Westminster, and not of the courts of record of inferior jurisdictions. (See *Jenk. Cent.* 228.)

Where an offence, created or made penal by statute, is in its nature single, one single penalty only can be recovered, though several join in committing it; but if the offence is in its nature several, each offender is separately liable to the penalty. (*R. v. Clark*, *Cowp.* 610.)

As, the stat. of Glou. 5, which gives treble damages, &c. in waste, against tenant for years, extends by equity to a tenant for half a year. (*Pl. Com.* 178.)

The stat. Wil. II., which gives debt against a gaoler for an escape of one committed for arrearages of an account, extends to an escape of any committed in execution for debt. (*Pl. Com.* 178 a, 35 a.)

So the stat. of Glou. 5, which gives remedy for waste against a lessee, extends to a devisee for life or years. (*Pl. Com.* 10 a.)

The stat. 1 Edw. II., *de frangentibus prisonam*, says, that a felon who breaks prison shall be guilty of felony; but it shall not be so if the prison was on fire. (*Pl. Com.* 13.)

II. What Statutes are Void.

Acts of Parliament derogatory from the power of subsequent parliaments bind not. So, the 11 Hen. VII. c. 1, which directs that no person, for assisting a king *de facto*, shall be attainted of treason by act of Parliament, or

Acts derogatory
to the power of
subsequent par-
liaments bind not.

3. *Time when Statute begins, &c.*

Statutes, enacting impossibilities, are invalid. So, where absurdities follow.

otherwise, is held to be good only as to common prosecutions for high treason; but will not restrain or clog any parliamentary attainder. (4 *Inst.* 43.) Because the legislature, being in truth the sovereign power, is always of equal, always of absolute, authority: it acknowledges no superior upon earth, which the prior legislature must have been, if its ordinances could bind a subsequent parliament. And upon the same principle, Cicero, in his letters to Atticus, treats with a proper contempt these restraining clauses, which endeavour to tie up the hands of succeeding legislatures. "When you repeal the law itself," says he, "you, at the same time, repeal the prohibitory clause, which guards against such repeal." (1 *Bla. Com.* 90.)

Acts of Parliament that are impossible to be performed are of no validity; and, if there arise out of them collaterally any absurd consequences, manifestly contradictory to common reason, they are, with regard to those collateral consequences, void. I lay down the rule with these restrictions; though I know it is generally laid down more largely, that acts of Parliament contrary to reason are void. But if the parliament will positively enact a thing to be done which is unreasonable, I know of no power in the ordinary forms of the constitution that is vested with authority to control it; and the examples usually alleged in support of this sense of the rule do none of them prove that, where the main object of a statute is unreasonable, the judges are at liberty to reject it; for that were to set the judicial power above that of the legislature, which would be subversive of all government. But where some collateral matter arises out of the general words, and happens to be unreasonable, there the judges are in decency to conclude that this consequence was not foreseen by the parliament, and therefore they are at liberty to expound the statute by equity, and only *quoad hoc* disregard it. Thus, if an act of Parliament gives a man power to try all causes that arise within his manor of Dale, yet, if a cause should arise in which he himself is a party, the act is construed not to extend to that, because it is unreasonable that any man should determine his own quarrel. (*Bonham's Case*, 8 *Rep.* 118.) But, if we could conceive it possible for the parliament to enact, that he should try as well his own causes as those of other persons, there is no court that has power to defeat the intent of the legislature, when couched in such evident and express words as leave no doubt whether it was the intent of the legislature or no. (*Id.*)

If an act of Parliament is clearly and unequivocally expressed, with all deference to the learned commentator, I conceive it is neither void in its direct nor collateral consequences, however absurd and unreasonable they may appear. If the expression will admit of doubt, it will not then be presumed that the construction can be agreeable to the intention of the legislature, the consequences of which are unreasonable; but, where the signification of a statute is manifest, no authority less than that of parliament can restrain its operation. (*Id.* *Note by Christian.*)

Statute against law of God void.

A statute cannot make it lawful for A. to commit adultery with the wife of B., for the law of God forbids it; but it may dissolve her marriage with B. and so enable her to marry A. (*City of London v. Wood*, 12 *Mod.*, 688.)

When good in part, though bad in rest.

Where a clause void by statute law is mixed up with good matter, entirely independent of it, the good part stands, the rest is void. (*Horn v. Synge*, 15 *East*, 440.)

Statutes void by improper framing of.

But if the part which is good depends upon that which is bad, the whole instrument is void. (*Biddell v. Leeder*, 1 *B. & C.* 327; 2 *D. & R.* 449, *S. C.*)

See as to what statutes are void by reason of defective parties to the framing of, and improper framing of. See *Bac. Ab. Statutes.* (A)

III. Time when Statute begins to take Effect, and how long it continues in Force.

Time of taking effect.

Time when it begins to take effect.] If an act of Parliament had been brought in at the close of a session, and passed on the last day, which made an innocent act criminal, or even a capital crime, and if no day was fixed

for the commencement of its operation, it had the same efficacy as if it had been passed on the first day of the session; and all who during a long session had been doing an act which at that time was legal and inoffensive, were liable to suffer the punishment prescribed by the statute. (4 *Inst.* 25; *Latless v. Holmes*, 4 *T. R.* 660; and see *Rumsey v. Tuffnell*, 2 *Bing.* 257; 9 *Moore*, 425.) This was both flatly absurd and unjust; but it was the clear law of England, and could only be abrogated by the united authority of the king, lords, and commons in Parliament assembled; who, by the 33 Geo. III. c. 13, enacted, that when the operation of an act of Parliament is not directed to commence from any time specified within it, the clerk of the Parliaments shall indorse upon it the day upon which it receives the royal assent, and that day shall be the date of its commencement.

An act made to correct an error by omission in a former statute of the same session, relates back to the time when the first act passed, and must be taken together as if they were one and the same act. (*Att. Gen. v. Pougett*, 2 *Price*, 381.)

It is in general true that no statute is to have a retrospect beyond the time of its commencement; for the rule and law of Parliament is, that "*Nova constitutio formam debet imponere non præteritis.*" (*Bac. Ab. Statutes*; (C) and see 1 *Bla. Com.* 46; *Couch v. Jeffries*, *Burr.* 2460; *Wilkinson v. Meyer*, *Lord Raym.* 1350; *Fowler v. Chatterton*, 6 *Bingh.* 258; *Kirkhaugh v. Herbert*, *Id.* 265.)

But a statute may have a retrospect to a time antecedent to that of its commencement. (*Bac. Ab. Statutes*, C.)

In construing a statute made after the entering into a contract, the sense of the words ought not to be strained, so as to avoid the contract to the benefit whereof some person was entitled at the time the statute was made. (*Wilkinson v. Meyer*, *Lord Raym.* 1352.)

Where by an act a duty is imposed, with a retrospective date depending on a fact which has taken place, and which is provided for by the alternative expressions "shall be," or "shall have been found," it seems that the duty attaches from such respective date. (*Hume v. Haig*, in error, 8 *Bro. P. C.* 196.)

Ignorance of law will not excuse a crime (see 4 *Bla. Com.* 27); but ignorance of a law which is of very recent enactment will in some cases afford good reason for a pardon. Thus, where the prisoner was indicted for maliciously shooting a person, and the offence was committed within a few weeks after the passing of the 39 Geo. III. c. 37, and before notice of it could have reached the place where the offence was committed, the judges thought that, as he could not have known of the act, he ought to have a pardon. (*R. v. Bailey*, *R. & R. C. C.* 1.)

Ignorance of statute, how far an excuse for a crime.

How long a statute continues in force.] Some statutes are temporary, others are perpetual.

How long a statute continues in force.

A temporary statute continues in force, unless it be sooner repealed, until the time for which it is made expires: a perpetual one until it is repealed. (*Bac. Ab. Statutes*, D.)

A temporary statute is sometimes made to continue in force after it has ceased to operate substantially, for the purpose of supporting prosecutions against those who have violated it during the term specified for its continuance. (*Id.*)

Every statute for the continuance of which no time is limited, is perpetual, although it be not expressly declared so. (*Id.*)

If an act be to have continuance for three years, and from thence to the end of the next session of Parliament, it shall continue to the end of a session which begins after the three years, though a session within three years continues several months or years after the three years. (1 *Vent.* 22.)

By the 48 Geo. III. c. 106, where any bill shall be introduced into any session of Parliament, for the continuance of any act which would expire in such session, and such act shall have expired before the bill for continuing the same shall have received the royal assent, such continuing act shall be deemed to have effect from the date of the expiration of the act intended to

5. *Things incidental to a Statute, &c.*

be continued, except it shall be otherwise provided in such continuing act. But nothing herein contained shall extend to affect any person with any punishment, penalty, or forfeiture, by reason of anything done or omitted to be done contrary to the provisions of the act continued, between the expiration of the same and the date at which the act continuing the same shall receive the royal assent. (As to the repeal of a statute, and its effects, see *post*, 872.)

IV. When the King shall be bound by a Statute.

When the king is bound by.

If an act speaks of the king *indefiniti*, being named in his politic capacity, it extends to all his successors. (12 Rep. 110; *the case of Soldiers*, 6 Rep. 27 a.)

So, to a queen, if the crown descends to a female. (12 Co. 110.)

But, generally, the king shall not be restrained of a liberty or a right which he had before, by the general words of an act of Parliament, if the king be not named in the act. (*Pl. Com.* 240; *Rex v. Cook*, 3 T. R. 521; *Case of Magdalen College*, 11 Rep. 66; see *R. v. Wright*, 1 Ad. & Ell. 437; 3 Nev. & M. 892.)

Yet, if a statute be intended to give a remedy against a wrong, the king, though not named, shall be bound by it: as by the 32 Hen. VIII. c. 28, to prevent a discontinuance by the husband of the lands of his wife during coverture. (2 Inst. 681.)

So, in all statutes made against wrong, to prevent fraud, or the decay of religion, the king is bound. (*Case of the Ecclesiastical Persons*, 5 Rep. 14 b.)

And therefore the king shall be bound by the statute Wil. II. c. 1, *de donis*. (*Case of the Ecclesiastical Persons*, 5 Rep. 14 b.)

So, by the statute Wil. II. c. 5, against tortious usurpations. (*Id.*)

So, by the statute of 31 Eliz. c. 6, against simony. (*Co. Lit.* 120 a.)

So, the king, though not named, is bound by acts for the advancement of religion, or of learning, or providing for the poor, as the act 10 Car., for uniting livings in Ireland. (*R. v. Archbishop of Armagh*; *Str.* 516.)

Clauses which limit in any way the right of the crown must be considered as repealed by subsequent statutes, unless expressly re-enacted. (*Att.-Gen. v. Newman*, 1 Price, 438.)

A statute made for the benefit of the king shall be construed most beneficially for him: as the 17 Edw. II., *de Præen Regis*, which says, that the king shall have the ward of his tenant seised in fee, extends to his tenant seised in tail. (*Pl. Com.* 11 a.)

When a statute creates a penalty, and says that one moiety shall be given to the use of the king, and the other to a common informer, the king may sue for the whole, unless a common informer has commenced a *qui-tam* suit for the penalty. (*R. v. Hymen*, 7 T. R. 536.)

V. Things incidental to a Statute, and necessarily implied.

Where statute gives a right, the common law gives remedy.

Wherever an act of Parliament gives a right, the common law gives a remedy. (*Ashby v. White*, *Salk.* 20, 21; *Ashby v. White*, 6 Mod. 54)

And whenever a provision of a statute is general, everything which is necessary to make such provision effectual is supplied by the common law. (1 Inst. 235, 2 ed. 222.)

Whenever a power is given by a statute, everything necessary to the making of it effectual is given by implication: for the maxim is, *Quando lex aliquid concedit, concedere videtur et id per quod devenitur ad illum*. (12 Rep. 130; 2 Inst. 306.)

If an offence be made felony by a statute, such statute does by necessary consequence subject the offender to the like attainder and forfeiture, and

does require the like construction, as to those who shall be accounted accessories before or after the fact, and to all other intents and purposes, as a felony at the common law does. (1 *Hawk. c. 41, s. 4*; 3 *Inst. 47, 49, 50.*)

Misprision of felony is as well incidental to a felony created by a statute as to one at the common law. (1 *H. H. P. C. 652.*)

In all cases where justices may take examinations, or other accusation or proof, though the statute doth not expressly set down that it shall be upon oath, yet it shall be intended that it shall be upon oath. (*Dalt. c. 115.*)

Generally it is holden, that where a statute appoints a thing to be done by one or more justices without giving any appeal to the sessions, there the justices in sessions may do that thing; but where an appeal is given to the sessions, the justices in sessions cannot proceed originally therein, because that method would take away the power of appealing. (See "*Sessions*," *ante*, p. 611.)

Where a statute gives power to the justices to require any person to do a thing, as to take the oaths, the law implicitly gives them power to issue their precept to have the body before them: for when the law granteth any thing to any one, that also is granted without which the thing itself cannot be; and it is against the office of the justices, and the authority given them by the law, that they shall go and seek the parties. (12 *Rep. 130, 131.*)

Where a statute gives power to the justices of the peace to hear and determine an offence in a summary way, it is necessarily implied and supposed, as a part of natural justice, that the party be first cited, and have opportunity to be heard and answer for himself. (1 *Haw. c. 64, s. 60*; *R. v. Benn*, 6 *Term, Rep. 198*, *Painter v. Liverpool Gas Company*, 3 *Ad. & Ellis*, 433.)

Where an act of Parliament gives power to two justices finally to hear and determine an offence, it is necessarily supposed, that they shall be both together, or, which is the same thing in other words, that they shall hold a special sessions for that purpose. And the like is, when they are to do any other judicial act, as to make an order of bastardy, or adjudge the settlement of a poor person. For it is unknown to the laws of England, that two persons shall act as judges in the same cause, when at the same time one of them is in one part of the country and the other in another. (See "*Justices*," Vol. III. p. 561.)

Where a statute appoints a conviction to be on the oath of one witness, this ought not to be by the single oath of the informer; for if the same person shall be allowed to be both prosecutor and witness, it would induce profligate persons to commit perjury for the sake of the reward. (*R. v. Stone*, 2 *Ld. Raym. 1545*; 1 *Sess. Cas. 378, S. C.*; see "*Conviction*," Vol. I. p. 864; Vol. II. p. 90.)

Where a statute directeth that a person shall be convicted of an offence upon the oath of one or more witnesses, and saith nothing of the confession of the party, yet if the offender shall before the justice confess the offence, he may be convicted upon such confession: for confession is stronger evidence than the oath of witnesses. (*Dalt. 109, 162*; *R. v. Gage*, 1 *Str. 546*; see "*Conviction*," Vol. I. p. 880.)

Where an act of Parliament gives power to the justices of the peace to take order in any matter according to their discretions, this shall be understood according to the rules of reason, law, and justice, and not by private opinion. (5 *Rep. 100*; see 8 *Howell's St. Tri. 55 (notis)*; and "*Justices*," Vol. III. p. 560.)

In all cases where the kingdom of England, or that part of Great Britain called England, hath been or shall be mentioned in any act of Parliament, the same shall be deemed to comprehend the dominion of Wales, and town of Berwick-upon-Tweed. 20 *Geo. II. c. 42, s. 3.*

Where a statute gives discretionary power of mitigating penalties, it is a general rule that there the legislature must be taken to have intended to place the matter under the jurisdiction of the justices of the peace. (*Per Abbott, C. J.*, *Reeve v. Poole*, 4 *B. & C. 156*; *R. v. Rawlinson*, 6 *D. & R. 26.*)

It may be laid down as an invariable rule, that the law favours liberty: Twelve months.

5. Things incidental to a Statute, &c.

Power to administer an oath.

In what case sessions may execute the power given to two justices.

Power to convene the parties.

Necessity of summoning the party.

Two justices to be both together.

Informer's oath.

Confession.

Discretionary power.

England including Wales.

Berwick.

Mitigating penalties.

5. *Things incidental to a Statute, &c.*

Quakers' affirmation.

Forfeiture.

Fine and ransom.

Power of commitment when implied.

Imprisonment.

Statute making an offence felony.

Misprision.

Infants.

Life and member.

so that, in the construction of a penal statute, where the interpretation is dubious, that sense must be pursued (all other things being equal) which is more beneficial to the subject, or the party suffering. Thus, where an act directs that the justices shall commit an offender to prison for twelve months, the justices may not alter the words, and commit him for a year; for, in this respect, twelve months and one year are not the same: but the months must be computed at twenty-eight days to the month, and not as calendar months, unless it be so expressed in the act. (See, *post*, "*Time*.")

In all cases wherein, by any act of Parliament, an oath shall be allowed or required, the solemn affirmation of Quakers shall be allowed instead of such an oath, although no particular or express provision be made for that purpose in the said act. 22 Geo. II. c. 46, s. 3. By the 9 Geo. IV. c. 32 (*ante*, "*Evidence*," Vol. II. p. 104,) a Quaker or Moravian required to give evidence in a criminal case may, instead of an oath, take the affirmation or declaration therein prescribed.

To say that a person shall forfeit generally, or that he shall forfeit to the king, is all one; for the king shall have every forfeiture not otherwise limited. (*Foster's Case*, 11 Rep. 60.) Except where a forfeiture is given in lieu of property and interest; for there it shall go to the party injured. (1 Roll. Rep. 90.) For, wheresoever a statute giveth a forfeiture or penalty against him which wrongfully detaineth or dispossesseth another of his duty or interest, in that case, he that hath the wrong shall have the forfeiture or penalty, and shall have an action for the same upon the statute, and the king shall not have the forfeiture in that case. (1 Inst. 159.)

Where a statute saith, that such a person shall pay fine and ransom to the king, in legal understanding such fine and ransom are all one: for, if they were divers, then should the party pay two sums, one for the fine and another for the ransom, which was never done. (1 Inst. 127.)

Acts of Parliament that speak of fines or ransoms at the king's pleasure, are always to be understood of the king in his courts by his justices. (1 Hale, 375.)

It is said, that wheresoever a justice of the peace is empowered, by any statute, to bind a person over, or to cause him to do a certain thing, and such person, being in his presence, shall refuse to be bound or to do such thing, the justice may commit him to the gaol, to remain there till he shall comply. (2 Haw. c. 16, s. 2; see "*Commitment*," Vol. I. p. 781; "*Justices*," Vol. III. p. 564.)

When a statute appoints imprisonment, but limits no time when, it shall be immediately. (*Bonham's Case*, 8 Rep. 119.)

When a statute appoints imprisonment, but limits no time how long, the prisoner in such case must remain at the discretion of the court. (*Dalt.* 410.)

Where any offender shall, by a justice of the peace, be committed to the house of correction for an offence cognizable before him out of sessions, and the time and manner of punishment is not by law expressly limited, he may commit him to the house of correction, there to be kept to hard labour until the next general or quarter sessions, or until discharged by due course of law. 17 Geo. II. c. 5, s. 32.

Wherever a statute makes any offence felony, it incidently gives it all the properties of felony at common law. (1 Haw. c. 38, s. 18.)

Therefore, an act of Parliament that makes an offence felony, doth consequently introduce the punishment of concealing,—that is, misprision of felony; and every offence made felony by act of Parliament includeth misprision. (1 Hale, 708.)

An act making a new felony extendeth not to infants under fourteen years of age; but if they be of that age it binds them. (1 Hale, 706; see "*Infants*," Vol. III.)

Not only those crimes which are made felonies by the express words of any statute, but also those which are decreed to have or undergo judgment of life and member, do become felonies thereby, whether the word felony were mentioned or not. (1 Haw. c. 40, s. 1.)

But an offence shall never be made felony by the construction of any doubtful and ambiguous words of a statute; and, therefore, if it be only prohibited under pain of forfeiting body and goods, or of being at the king's will for body, lands, and goods, it shall amount unto no more than a high misdemeanor, punishable by imprisonment or the like. (*Id.* s. 2.)

5. Things incidental to a Statute, &c.
Body and goods.

Saving of dower in a statute making an offence felony, is superfluous; for, by the 1 Edw. VI. c. 12, s. 17, dower is not lost by the felony of the husband.

Forfeiture of dower.

Where any complaint shall be made before a justice, and a warrant or summons shall issue in consequence thereof, the justice, upon hearing and determining the matter, may award costs to either party: but if the conviction be upon a penal statute, and the penalty amounts to 5*l.* or upwards, the costs shall be deducted out of the penalty. (18 Geo. III. c. 19; see "**Costs**," Vol. I.; "**Conviction**," p. 896.) Acts giving costs should in general be construed strictly. See, *post*, 869.

Costs.

Upon an indictment or other criminal prosecution, no damages can be given to the party grieved; but it is every day's practice in the Court of King's Bench to induce defendants to make satisfaction to the prosecutors, by intimating an inclination on that account to mitigate the fine due to the king. (2 *Haw. c.* 25, s. 3; see further, "**Justices**," Vol. III. p. 565.)

Damages.

Where a statute gives treble damages, the justices are not to assess the damages, and then treble them; but the jury ought to find the damages, and then the justices are to treble them. (*Bumpstead's Case*, *Cro. Car.* 449. "**Justices**," Vol. III. p. 565.)

Treble damages.

In all cases where a justice is required by an act of parliament to issue a warrant of distress for the levying of any penalty inflicted, or any sum of money directed to be paid by such act, it shall be lawful for such justice granting the warrant, therein to order and direct the goods distrained to be sold within a certain time to be limited in such warrant, so as such time be not less than four days, nor more than eight days, unless such penalty or sum of money, together with the reasonable charges of taking and keeping the distress, be sooner repaid. And the officer making such distress may deduct the reasonable charges of taking, keeping, and selling the said distress; and the overplus, if any, shall be returned to the owner on demand. Except only in cases of distress for Quakers' tithes and church-rates. (27 Geo. II. c. 20; see "**Distress under Justices' Warrant**," Vol. I.)

Distress and sale.

An act inflicting a penalty for a second offence must always be understood, after conviction and judgment for the first offence; and the second offence must be committed after the first conviction, and judgment thereupon given; for it doth not appear to be an offence, until judgment by proceeding of law be given against the offender. (2 *Inst.* 468.)

Second offence.

And the indictment for a second offence must recite the record of the first conviction; and, upon the evidence, the record of the first conviction must be proved: but the matter of the first conviction shall never be re-examined, but must stand for granted. (1 *Hale*, 686.)

A private act which provides for the expense of maintaining a jury does not extend to a dinner given to them at a tavern after they had delivered their verdict. (*Forster v. Taylor*, 3 *Camp.* 49.)

Expense of jury.

As to how far the forms prescribed by a statute must be followed, see, fully, "**Conviction**," Vol. I. p. 897.

Forms given by statute.

If a particular form of a notice or order be prescribed by a private act of Parliament, it must be fully set out and precisely pursued; and an allegation that due notice was given is not sufficient. (*R. v. Croker*, *Cowp.* 30.)

And a defective notice, under a private act of Parliament, is not cured by the appearance of the party. (*Id.*)

As to the construction of clauses limiting the time for bringing actions, &c., for prosecutions, &c., under the act, or for acts done under it, see, *post*, "**Time**," "**Conviction**," Vol. I.; "**Justices**," Vol. III. p. 592.

Clauses of limitation of proceedings under.

All actions, indictments, or informations, on penal statutes, for any forfeiture limited to the king, shall be brought within two years after the

Limitation of prosecution on penal statutes.

6. *Construction of Statutes.*

offence committed; if limited to the king and prosecutor, then within one year; and if it is not sued for in that one year, then the king may sue for the same within two years after the expiration of that one year, and not otherwise. (31 Eliz. c. 5, s. 5.) That is to say, unless where it is otherwise specially directed by subsequent statutes. (See "*Information*," Vol. III. p. 458, 459.)

Wherever a statute imposes terms and prescribes a thing to be done within a certain time, the lapse of a day is fatal, even in a penal case, because no inferior court can admit of any terms but such as directly and precisely satisfy the law. (*Farrell v. Tomlinson*, 5 Bro. P. C. 438; *Bonham's Case*, 8 Rep. 119.)

Act indemnifying persons acting under it.

It has uniformly been held, that where a party *bonâ fide* believes or supposes he is acting in pursuance of an act of Parliament, he is within the protection of its clauses. (*Beechey v. Sides*, 9 B. & C. 809; 4 M. & R. 634; and see the various decisions collected under the title "*Justices*," Vol. III. p. 587.)

Where an act gives certain privileges to officers who may be sued for things done in pursuance thereof, and a subsequent act imposes new obligations, the privileges given by the former act do not attach upon things done in pursuance of the latter. (*Bazing v. Skelton*, 5 T. R. 16.)

VI. *Construction of Statutes.*

Construction of statutes.

We have already, in the preceding section, while treating of some of those things which are incidental to a statute, and necessarily implied, noticed some rules for the construction of the same.

Nothing ought to be considered so necessary to the due administration of the office of justices of the peace as a thorough acquaintance with the mode of construing statutes, since by far the greater portion of his jurisdiction depends upon them.

Abridgments should never, in any instance, be relied on in the construction of a statute. The statute itself should be consulted. For, according to Lord Coke, the best exposition of all acts of Parliament are the acts of Parliament themselves: "*optima statuti interpretatrix est (omnibus particulis ejusdem inspectis) ipsum statutum*;" and "*injustum est nisi tota lege inspecta, una aliqua ejus particula proposita judicare vel respondere*." (a)

The following are the most prominent rules and principles by which statutes are to be construed.

Construction must be according to words and intent of act.

All acts of Parliament, as well private as general, shall be taken by a reasonable construction to be collected out of the words of the acts themselves, according to the true intent and meaning of the makers of the act. (*Ld. Mountjoy's Case*, 5th Reports; *Case of the Chancellor of the University of Oxford*, 10 Rep. 57, b.; *Com. Dig. Parliament*, R. 10.) Therefore, if a corporation be misnamed, if it appear that it was intended, it is sufficient. (*Case of the Chancellor of the University of Oxford*, 10 Rep. 57, b.; *Com. Dig. Parliament*, R. 10.)

The rule for the construction of a statute, as given by *Bac. Abr. Statutes* (I.) 6, (from *Plowd.* 467), is to suppose the law-maker present, and to be asked what he intended, and then to give such an answer as he, being an upright and reasonable man, might have been expected to give.

When the ordinary sense to be regarded or not.

Provisions in acts of Parliament, according to the ordinary sense of the words, unless such construction would lead to some unreasonable result, or be inconsistent with or contrary to the declared or implied intention of the framer of the law, in which case the grammatical sense of the words may be extended or modified; instances of which are to be found in *Eyston v. Studd*, *Plowd.* 463; *Bac. Ab. Statutes* (I.), *per curiam*, in *R. v. Pease*, 4 B. & Ad. 40.

(a) For these reasons, it is thought expedient, in this edition of the work, in most instances to give the very words of the statutes.

When the provision of a statute is general, it is subject to the control and order of the common law, and it should be construed accordingly, for statutes are not presumed to make any alteration in the common law, further or otherwise than the act expressly declares; therefore, in all general matters, the law presumes the act did not intend to make any alteration, for if the Parliament had that design, they would have expressed it in the act. (*Harbert's Case*, 3 Rep. 116; also, *R. v. Bishop of London*, 1 Shaw, 455; *Hard.* 62; *Arthur v. Boxenham*, 11 Mod. 150.)

6. Construc-
tion of Statutes.

Construction to
be according to
common law.

If in the same act of Parliament there be one clause which applies to a particular case, and another which is conceived in general terms, the former shall not restrain the signification of the latter. (*Per Buller, J., Andree v. Fletcher*, 2 T. R. 164.)

But where a general intention is expressed, and the act expresses also a particular intention incompatible with the general intention, the particular intention is to be considered in the nature of an exception. (*Per Best, C. J., Churchill v. Crease*, 5 Bing. 180; 2 Moor. & P. 415; *R. v. Bishop of Armagh*, 8 Mod. 8; and see *Bac. Ab. Statutes* (I).)

Where the words of a statute are doubtful, general usage may be called in to explain them; for *jus et norma loquendi*, is governed by usage; but, where they are clear, the usage of a particular place cannot control them. (*R. v. Hogg*, 1 T. R. 728; *Vaughan*, 169; *Bac. Ab. Statutes* (I). The usage of any particular place alone cannot do so. (*Id. Cald.* 266, S. C.)

Usage to explain.

In construing acts of Parliament, the court must take into consideration not only the language of the preamble, or of any particular clause, but of the whole act; and if in some of the enacting clauses expressions are found of more extensive import than in others, the court will give effect to those more extensive expressions, if, upon view of the whole act, it appears to have been the intention of the legislature that they should have effect. (*Doe v. Brandling*, 7 B. & C. 643; 1 M. & R. 600, S. C.; *Lincoln College Case*, 3 Rep. 58.)

Whole act to be
considered.

No strained construction should be placed upon a statute: it should be construed like a will. (*Butler and Baker's Case*, 3 Rep. 25.)

Should be con-
strued like a will.

Too much stress ought not to be laid on the literal meaning of a statute. Wherever it admits of two constructions, the spirit of it, and intent of the legislature, ought to be regarded in the construction thereof. Thus, the 13 Geo. III. c. 84, s. 34, provides, amongst other exemptions from toll, "or for any horses or carriages which shall only cross any turnpike road, and shall not pass above one hundred yards thereon." A question arose, whether a carriage, which did not cross the road, but quitted it again on the same side on which it entered, was not liable to toll, although it did not pass the one hundred yards. The court held that it was not liable, observing, that the statute meant to exempt carriages making a very slight use of the road. (*Major v. Oxenham*, 5 Taunt. 340; ante, Vol. III. p. 248; see *R. v. Morris*, 1 B. & Ad. 441.)

Statute not al-
ways to be con-
strued literally.

Doubtful words should be construed with reference to the object and intentions of the act. (See *Jardine v. Lewis*, 9 B. & C. 548; *R. v. Hall*, 1 B. & C. 123; 2 D. & R. 241; and see *per cur.*, *R. v. Pease*, 4 B. & Ad. 40.)

Doubtful words to
be construed with
reference to object
of act.

It has more than once been observed by the court, that the language of acts of Parliament is not to be examined with a critical eye, but according to its plain and obvious meaning. If we can find expressions in a statute capable of an intelligible explanation, it is our duty to give effect to them, according to the obvious intention of the legislature, and not according to a critical and literal interpretation. (*Per Abbott, C. J., R. v. Bellamy*, 2 D. & R. 727; 1 B. & C. 500, S. C.)

Where the legislature, in a very modern act of Parliament, have used words of a plain and definite import, it is very dangerous to put upon them a construction, the effect of which will be to hold that the legislature did not mean that which they have expressed. (*Per Bayley, J., R. v. Stoke Damerel*, 7 B. & C. 563; 1 M. & R. 458, S. C.)

One part of a statute must be so construed by another, that the whole may (if possible) stand: *ut res magis valeat, quam pereat*. But a saving, totally

Different parts so
construed as if
possible to stand.

6. *Construction of Statutes.*

A saving, totally repugnant, void.

repugnant to the body of the act, is void. If, therefore, an act of Parliament vests land in the king and his heirs, saving the right of all persons whatsoever; or vests the land of A. in the king, saving the right of A.; in either of these cases the saving is totally repugnant to the body of the statute, and (if good) would render the statute of no effect or operation; and, therefore, the saving is void, and the land vests absolutely in the king. (*The Case of Alton Woods*, 1 Rep. 47; 1 Bla. Com. 81.)

Saving clause.

A saving clause will only save that which is in *esse* at the time of the saving. (*Case of Alton Woods*, 1 Rep. 40, b.)

An act ought not to be construed so as to work an injustice. (*Sir J. Nedham's Case*, 8 Rep. 136, a; *Towler v. Chatterton*, 6 Bing. 259; 3 M. & P. 619.)

Not to be construed against reason.

No statute shall be construed in such a manner as to be inconvenient and against reason. (*Hughes v. Hughes*, Carth. 136; 1 Inst. 97.)

By the 12 Car. II. c. 17, all persons presented to benefices in the late times, who should conform as in the statute was directed, were to be confirmed therein, *notwithstanding any act or thing whatsoever*: yet it was holden, that the statute did not extend to the confirming of a person, who had been simoniacally promoted. (*Crawley v. Phillips*, Sid. 232.)

Title of act.

The title of a statute is no part of the law. (*R. v. Williams*, 1 W. Bla. 95.)

But it may, it seems, be referred to in construing the statute. (See *Free v. Burgoyne*, 5 B. & Cres. 400; 2 Bligh, Rep. 78, N. S.; *R. v. Pierce*, 3 M. & Sel. 62; *Mayor of Leicester v. Burgess*, 5 B. & Adol. 250; 2 Nev. & M. 131; *sed vide Bac. Ab. Statutes* (I.); *Hard. 324*; *Lord Raym. 77*.)

The preamble to be considered.

The preamble is deemed true, and is a good means for collecting the intent, and may always assist in the solution of doubts. (*Crespigny v. Witternoon*, 4 T. R. 793; 1 Inst. 11; *Bac. Ab. Statutes* (I).) But the preamble shall not restrain the operation of the enacting part of a statute which is expressed in clear and unambiguous words: as, where the preamble reciteth only a particular inconvenience, this shall not hinder a subsequent enacting clause from being understood in that more general sense which the words would otherwise and of themselves import, so as to take in other inconveniences of the like kind, although not specified in the preamble. (*R. v. Athos*, 8 Mod. 144; 1 P. Wms. 320; *Lofft*, 782; *Patterson v. Bankes*, Cowp. 543; *Perkins v. Sewell*, 1 Bla. Rep. 659; *Wright v. Nuttall*, 10 B. & C. 492. See the rule laid down in 7 B. & C. 643, *ante*, 865.)

The enacting words of a statute may be carried beyond the mischief recited in the preamble, if such, upon a fair exposition of the statute, appear to have been the intention, and the words are sufficiently large. (*R. v. Pierce*, 3 M. & Sel. 62; and see *Halton v. Cove*, 1 B. & Adolph. 538.)

Statutes in *pari materia*.

All statutes in *pari materia* are to be construed as one law; *Earl of Ailesbury v. Pattison*, 1 Dougl. 30; *Jones v. Smart*, 1 T. R. 53; *R. v. Inhabitants of Gwenop*, 3 T. R. 135; and should be construed together, (2 *Lofft*, 398; *R. v. Conservators of River Tone*, 1 B. & Adolph. 561; 4 M. & Sel. 210; *Bac. Ab. Statutes* (I).)

As if one statute prohibit the doing of a thing, and another statute afterwards be made whereby a forfeiture is inflicted upon the person doing that thing, both are to be considered as one statute. (*Stradling v. Morgan*, Plowd. 206.)

If it can be gathered from a subsequent statute in *pari materia* what meaning the legislature attached to the words of a former statute, this will amount to a legislative declaration of its meaning, and will govern the construction of the first statute. (*Morris v. Mellin*, 6 Barn. & C. 454; 9 D. & R. 503; and see 7 Barn. & C. 99.)

Private statutes.

The construction of private acts of Parliament is to be governed by the principles of common law, and applied to the subject in a manner analogous to the rules of interpretation in a private deed or conveyance. (*Eton College v. Winchester, Bishop*, *Lofft*, 401.)

They ought not to have a liberal construction put on them. (*Threadneedle v. Lynam*, 2 Mod. 57; *Bac. Ab. Statutes* (I).)

A statute made *pro bono publico*, shall be construed in such manner that it may as far as possible attain the end proposed. (*Pierce v. Hopper*, 1 *Str.* 253, 258.)

The *New River* water act was holden, although only the City of *London* be therein mentioned, to extend to places adjacent; because all statutes made for the conveniency of the public ought to have a liberal construction. (*New River Company v. Graves*, 2 *Vern.* 431; and see *R. v. Pease*, 1 *Nev. & M.* 690; 4 *B. & Adol.* 37.)

6. *Construction of Statutes.*

Statutes for public good to be construed liberally.

There are three points to be considered in the construction of all *remedial statutes* (a); the old law, the mischief, and the remedy: that is, how the common law stood at the making of the act; what the mischief was, for which the common law did not provide; and what remedy the Parliament hath provided to cure this mischief. And it is the business of the judges so to construe the act as to suppress the mischief and advance the remedy, consistently with the fair construction of the act. (*Heydon's case*, 3 *Rep.* 7; *Co. Lit.* 11, 42; 1 *Bla. Com.* 81; *Johnes v. Johnes*, 3 *Dow*, 15; *Atcheson v. Everitt*, *Cowp.* 391, *S. P.*; *Stainford v. Sinclair*, 9 *Moore*, 379; 2 *Bing.* 193, *S. C.*)

Remedial statutes to be construed liberally.

So, in all cases within the same mischief, the case shall be construed within the intent though it be not within the letter of the statute. (*Com. Dig. Parliament*, R. 13.) As the statute *Marlb.* 29, which gives remedy to the successor, *ad bonæ ecclesiæ repetenda*, extends to trespass for cutting down trees. (2 *Inst.* 152.)

All cases within the same mischief.

The 2 *Geo. II.* c. 22, continued by the 29 *Geo. II.* c. 28, expired 1st June, 1759; the 32 *Geo. II.* c. 28, commenced 15th June, 1759; so there was a chasm of fourteen days. The court declared they would construe equitably, and that Trinity Term, 1759, ought to be considered as the term in which such prisoners (as had been precluded by the expiration of the former act from completing their discharge under it) were charged in execution, and therefore they had *Michaelmas* term for the first term next after their being charged in execution. (2 *B. M.* 901.)

But a *casus omissus* can in no case be supplied by a court of law; for that would be to make laws. (*Per Buller, J., Jones v. Smart*, 1 *T. R.* 52.)

Casus omissus.

A case out of the mischief intended to be remedied by a statute shall be construed to be out of the purview, though it be within the words of the statute. (2 *Inst.* 386.)

A case out of mischief provided against.

Statutes against frauds are to be liberally and beneficially expounded. This may seem a contradiction to the rule, that penal statutes should be construed strictly; most statutes against frauds being in their consequences penal. But this difference is here to be taken: where the statute acts upon the offender, and inflicts a penalty, as the pillory or a fine, it is then to be taken strictly, but when the statute acts upon the offence, by setting aside the fraudulent transaction, here it is to be construed liberally. Upon this footing the statute of 13 *Eliz.* c. 5, which avoids all gifts of goods, &c. made to defraud creditors and others, was held to extend by the general words to a gift made to defraud the queen of a forfeiture. (*Twynne's case*, 3 *Rep.* 81.)

Statutes against frauds construed liberally.

And it has been held that the same words in a statute will bear different interpretations, according to the nature of the suit or prosecution instituted upon them. As, by the 9 *Anne*, c. 14, the statute against gaming, if any person shall lose at any time or sitting 10*l.*, and shall pay it to the winner, he may recover it back within three months; and if the loser does not, within that time, any other person may sue for it, and treble the value besides. So, where an action was brought to recover back fourteen guineas, which had been won and paid after a continuance at play, except an interruption during dinner, the court held the statute was remedial, as far as it prevented the effects of gaming, without inflicting a penalty, and therefore, in this action, they considered it one time or sitting; but they said, if an action had been brought by a common informer for the penalty, they would have construed

(a) As to what are, see, *ante*, 856.

6. *Construction of Statutes.*

Penal statutes construed strictly.

it strictly in favour of the defendant, and would have held that the money had been lost at two sittings. (*Bones v. Booth*, 2 *Bla. Rep.* 1226.)

Penal Statutes (a) must be construed strictly. Thus, the 1 Edw. VI. c. 12, having enacted that those who are convicted of stealing *horses* should not have the benefit of clergy, the judges conceived that this should not extend to him that should steal but one *horse* (b), and therefore procured a new act for that purpose in the following year, 2 & 3 Edw. VI. c. 33. (*Bac. Elem.* c. 12.) And by the 14 Geo. II. c. 6, stealing sheep or other cattle was made felony, without benefit of clergy. But these general words, "or other cattle," being looked upon as much too loose to create a capital offence, the act was held to extend to nothing but mere sheep. And therefore, in the next sessions, it was found necessary to make another statute, 15 Geo. II. c. 34, extending the former to bulls, cows, oxen, steers, bullocks, heifers, calves, and lambs, by name. And see now the 7 & 8 Geo. IV. c. 29. It has since been decided, that where statutes use the plural number, a single instance will be comprehended. The 2 Geo. II. c. 25, enacts, that it shall be felony to steal any bank-notes, and it has been determined that the offence is complete by stealing *one* bank-note. (*Hassel's case*, *Leach's Cr. L.*)

The statute against maintenance shall be construed strictly. (*Com. Dig. Parliament*, R. 20, 86 b.)

The statute *de malefactoribus in parvis* was held not to extend to those in forests. (*Id.*)

So, the general words of a penal statute shall be restrained for the benefit of him against whom the penalty is inflicted.

As the stat. Wil. II. 11, that the body of an accountant shall be committed by the auditors to gaol, without saying at what time; but he cannot be committed by them, if it be not immediately upon the account. (*Pl. Com.* 17 a.)

So, where the 12 Geo. II. c. 34, s. 2, directs that the sheriff should proclaim the order in council against offenders under that act, in two market towns, *near* the place where such offence was committed, the word *near* shall be taken to mean a reasonable vicinity, though not equivalent to *next*. (*R. v. Harvey*, 1 *Wils.* 164; 1 *Bl.* 20, S. C.)

But the exposition of a penal statute ought to be such, that the statute be not eluded. (2 *Rol.* 127; *Com. Dig. Parliament*, R. 28; and see *Bac. Ab. Statutes* (J).)

See further *ante*, 857.

Every statute which introduces a capital punishment must be construed strictly. (*R. v. Harvey*, 1 *Wils.* 164.)

Statutes under which parties are made exempt from duties imposed by general acts should be construed strictly. (*Perchard v. Heywood*, 8 *T. R.* 468.)

A statute imposing a charge on the public must be construed strictly. And where a special authority is delegated, by statute, to particular persons to take away a man's property and estate against his will, there it must be strictly pursued, and must appear to be so upon the face of the proceedings. (*R. v. Croke*, *Cowp.* 26.) And such an act must be construed strongly against the parties to whom that authority is given, and in favour of private

But exposition ought not to be such as to elude the act.

Statute introducing capital punishment.

Exemption from duties.

Statute against common rights.

(a) As to what are, see, *ante*, 857.

(b) Lord *Hale* thinks that the scruple of the judges did not merely depend upon the words being in the plural number, because no doubt had ever occurred respecting former statutes in the plural number; as, for instance, it was enacted by the 32 Hen. VIII. c. 1, that no person convicted of burning *any dwelling-houses* should be admitted to clergy. But the reason of the difficulty in the

case was, because the statute of 37 Hen. VIII. c. 8, was expressly penned in the singular number, *If any man do steal any horse, mare, or filly*; and then this statute, thus varying the number, and at the same time expressly repealing all other exclusions of clergy introduced since the beginning of Hen. VIII., it raised a doubt whether it were not intended by the legislature to restore clergy where only one horse was stolen. (2 *H. P. C.* 365.)

property. (*Scales v. Pickering*, 4 Bingham. 448; 1 Moor. & P. 195; and see 6. Construction of Statutes. *Dudley Canal Company v. Grazebrook*, 1 B. & Adol. 59.)

An enlarged construction must not be put thereon. (*Lofft*, 438; *Hull Dock Company v. La March*, 8 B. & Cres. 52; 2 Man. & R. 107; *Stowbridge Can. Comp.*, 2 B. & Adol. 792; *Fraser v. Swansea Can. Comp.*, 3 Nev. & M. 391; 1 Ad. & Ell. 354.)

By an act reciting that a railway between certain points would be of great public utility, and would materially assist the agricultural interest and the general traffic of the country, power was given to a company to make such railway according to a plan deposited with the clerk of the peace, from which they were not to deviate more than 100 yards. By a subsequent act the company, or persons authorized by them, were empowered to use locomotive engines upon the railway. The railway was made parallel and adjacent to an ancient highway, and in some places came within five yards of it. It did not appear whether or not the line could have been made in those instances to pass at a greater distance. The locomotive engines on the railway frightened the horses of persons using the highway as a carriage road. On indictment against the company for a nuisance, it was held, that this interference with the rights of the public must be taken to have been contemplated and sanctioned by the legislature, since the words of the statute authorizing the use of the engines were unqualified, and the public benefit derived from the railway (whether it would have excused the alleged nuisance at common law or not) showed at least that there was nothing unreasonable in a clause of an act of Parliament giving such unqualified authority. (*R. v. Pease*, 1 Nev. & M. 690; 4 B. & Adolph. 30.)

An act of Parliament, authorizing persons to repair and cleanse a navigable river, does not authorize them to make a passage to a new wharf on the river. (*Poathwicke v. Mason*, 2 Chit. 658; see *R. v. Morris*, 1 B. & Adol. 441.)

If an act of Parliament gives to the lord of a manor the conusance of all pleas within his manor, he shall not have conusance where he himself is party; *iniquum est aliquam suæ rei esse judicem*. (*Bonham's case*, 8 Coke, 118, a.)

Affirmative words in a statute do not take away a former custom. (Co. Against customs. *Litt.* 115, a; *Com. Dig. Parliament*, R. 24.) The statute 11 Geo. IV. & 1 Wil. IV. c. 64, for permitting the general sale of beer by retail in England, does not supersede the custom of a borough, that no person shall carry on the trade of an alehouse-keeper therein who is not a burgess. (*Mayor, Bailiffs, and Burgesses of the borough of Leicester v. Burgess*, 2 Nev. & M. 131; 5 B. & Adol. 246; and see *Simson v. Moss*, 2 B. & Adol. 543.)

Statutes restrictive of the common law should receive a restrictive construction. (*Ash v. Abdy*, 3 Swanst. 664.) Against common law rights.

It has been holden that a statute discharging insolvent debtors ought to be construed strictly, because it gives away the property of some subject. Giving away property of subject— Et per *Holt*, C. J., "Let a statute be ever so charitable, if it give away the property of a subject, it ought to be construed strictly." (*Calladay v. Pilkington*, 12 Mod. 513.) as the insolvent act.

A statute shall never have an equitable construction in order to overthrow an estate. (*Wroth v. the Countess of Sussex*, 3 Leon. 133.)

All statutes that give costs are to be taken strictly. (*Cone v. Bowles*, 1 Statutes giving costs. *Salk.* 205; *R. v. Glastonby*, C. T. Hardw. 357; and see *R. v. York (Justices of)*, 3 Nev. & M. 685; 1 Ad. & Ell.; *Bac. Ab. Statutes* (I.)).

A statute creating a new jurisdiction ought to be construed strictly. Creating new jurisdiction. (*Reeve v. Hopper*, *Stra.* 258, 260; 10 Rep. 73.)

It has therefore been holden, that the 6 Geo. I. c. 21, which gives the commissioners of excise a jurisdiction to condemn in a summary way certain goods therein mentioned, ought to be construed strictly; because it breaks in upon the ancient jurisdiction of the Court of Exchequer. (*Warwick v. White*, *Bunb.* 106.)

Regularly, where an act of Parliament giveth a power or interest to one person certain, by this express designation of one, all others are excluded. Special power to one person only to be pursued. (11 Rep. 59, 64.)

Where persons, as justices, commissioners, &c., have special authority by Special authority.

6. *Construction of Statutes.*

Where statute makes an instrument void.

Where statute does not cure defective conveyance.

Copyholds, when included.

Property not vested within words of act.

Universities.

When words of permission obligatory, as the words, "shall and may be," &c.

statute, they have none but what is under such statute, all other acts being void. (*R. v. Lindale*, 1 Burr. 445.)

If it be doubtful whether a statute declaring an act, instrument, or contract, void, makes it voidable only, another clause in the same statute, imposing a penalty on such act, instrument, or contract, is a clear test that it is, *ipso facto*, void. (*Gye v. Felton*, 4 Taun. 876.)

Where a statute points out the manner in which a canal company shall convey lands, and enacts that "every such conveyance shall be valid," it does not cure any defect in the title of lands so conveyed. (*Ward v. Scott*, 3 Campb. 284.)

Where an act of Parliament alters the service, tenure, or interest in the land in prejudice of the lord or tenant, there the general words of such act will not extend to copyholds; but if an act is made for the public good, and no prejudice accrues to the lord or tenant, there copyholds are within the purview of it. (*Heyden's case*, 3 Rep. 7.)

If, under an act of Parliament, the property in goods, chattels, furniture, clothing, and debts, is vested in certain directors of the poor, yet the property in money and securities for money is not vested in them by those words. (*R. v. Beacall*, and *R. v. Willings*, 1 C. & P. 454.)

Statutes conferring privileges on the members of the universities mean only the members of the universities of Oxford and Cambridge, unless otherwise expressed. (*Jones v. Smart*, 1 T. R. 49.)

If a statute says, that anything for the public benefit *may* be done, it shall be sometimes construed that it *must* be done: as the 23 Hen. VI. c. 10, says, *the sheriff, &c. may bail*, he shall be bound to bail. (*R. v. Barlow*, Salk. 609; *Com. Dig. Parliament*, R. 22.)

By the statute 17 Geo. II. c. 38, "it *shall and may be lawful*" for the justices to commit an outgoing churchwarden or overseer who neglects or refuses to account. This renders it *discretionary* only in the justices to commit. (*R. v. Justices of Norfolk*, 1 Nev. & M. 67; 4 B. & Adol. 238.)

The 13 & 14 Car. II. c. 12, enacts, that the overseers *may* make a rate to reimburse the constables: this is construed they *shall*; for they are compellable so to do. (*R. v. Barlow*, 2 Salk. 609.)

So in the stat. 8 & 9 Wil. III. c. 11, s. 8, the words "*may assign*," and "*may suggest*" breaches, are held compulsory on the plaintiff to proceed according to the statute. (5 T. R. 636; 2 Wils. 577.)

The words "shall and may" are only imperative where the clause in a statute is for the public benefit. (*R. v. Flockwold Inclosure (Commissioners)*, 2 Chit. 251; *R. v. The Steward of Havering Atte-Bower*, 5 B. & Ald. 691; 2 D. & R. 176, n.)

But if from the whole act it appears the legislature did not intend the words *shall* and *may* as imperative, they cannot be so construed—as where an act directed it should and might be lawful for trustees to do an act if it should be *deemed proper*, &c., it was held the enactment was merely directory. (*De Beauvoir v. Welch*, 7 B. & C. 226; 1 M. & R. 81, S. C.; *ante*, Vol. III., p. 214.)

In *R. v. the Bailiffs of Eye*, 4 B. & Ald. 271, the words "*it shall be lawful*" came under consideration as occurring in one of their bye-laws; on which Abbott, C. J., observed, "the words are, 'that it shall be lawful for the bailiffs, &c. to admit.'" Those words clearly give to the bailiffs a discretionary power to admit the persons who have the qualifications therein mentioned, but they by no means make it imperative on them so to do. (See, also, *Allen v. Waldgrave*, 2 Moore, 625; 8 Taun. 566, S. C.)

A clause in an act of Parliament fixing the time of electing a parish officer, &c., is in general construed as *directory* only. (See *R. v. Mayor of Norwich*, 1 B. & Adol. 310; *R. v. Sparrow*, 2 Stra. 1123; *R. v. Denbighshire*, 4 East, 142.)

And it has often been held where an act orders anything to be performed by a public body, and merely points out the specific time when it is to be done, that such act is not imperative, but directory, and may be complied with in a reasonable time after the period prescribed. (See per *Littledale, J.*, in *Smith v. Jones*, 1 B. & Adol. 334.)

An act of the 51 Geo. III. for making the *Bridgewater and Taunton* canal, after reciting that the making of that canal would be very prejudicial to the tolls authorized to be levied and collected from the *Tone* navigation, authorized and required the company of proprietors of the canal, within three calendar months, to contract and agree with the conservators of the river *Tone* navigation and other persons, proprietors of shares, or parts of shares, or otherwise interested therein, for the absolute purchase of their several and respective estates, rights, and interests in and to the same, and also to contract and agree with the overseers of the poor for the time being of the town of *Taunton*, and the several parishes of *Taunton*, *St. Mary Magdalen*, and *Taunton St. James*, for the absolute purchase of the respective estates, rights and interests of the said town and parishes, under and by virtue of the said therein recited act.—The 51 Geo. III. was repealed by the 5 Geo. IV.—Held by *Bayley* and *Littledale*, Justices, that the words, within three calendar months, applied to both branches of the clause, and that the canal company therefore were bound to have contracted within that period with the overseers of the poor of the parishes of *Taunton*; and not having done so, they could not afterwards compel them to sell their interest; and by *Parke*, J., that whether the right to purchase that interest was limited to three months or not; at all events, it was gone when the 51 Geo. III. was repealed. (*Conservators of River Tone v. Ash*, 10 B. & Cres. 349.)

The stat. 9 Anne, c. 20, s. 4, giving power to private persons to exhibit *quo warranto* informations for the usurping of offices, relates only to offices in cities, towns, corporate boroughs, and “places,” such places being places *ejusdem generis* with those previously named. (*R. v. Wallis*, 5 T. R. 375; and see as to construing words *ejusdem generis*, *Sandiman v. Breach*, 7 B. & Cres. 96; 9 D. & R. 796; ante, “*Lord’s Day*,” Vol. III. p. 753; *Lowther v. Radnor* (Earl), 8 East, 113; ante, “*Servants*,” p. 537; *Hare v. Horton*, 5 B. & Adol. 715; 2 Nev. & M. 428.)

A statute which treats of things or persons of an inferior rank, cannot by any general words be extended to those of a superior. So, a statute treating of “deans, prebendaries, parsons, vicars, and others having spiritual promotion,” is held not to extend to bishops, though they have spiritual promotion, deans being the highest persons named, and bishops being of a still higher order. (*Canterbury’s Case*, 2 Rep. 46; *Hard.* 442.) This construction must be presumed to be most conformable to the intention of the legislature.

Where a statute mentions inferior conveyances, the subsequent words, “by any other means,” cannot be intended of an act of Parliament, which is the highest manner of conveyance that can be; and, therefore, the makers of the act would have put that in the beginning, and not in the end, after the inferior conveyances, if they had intended to extend the act thereunto. (*Archbishop of Canterbury’s Case*, 2 Rep. 46 b; *Copland v. Powell*, 1 Bing. 373; 8 Moore, 400.)

Where a statute speaks of indictments to be taken before justices of the peace, or others having power to take indictments, it shall be understood only of other inferior courts, and not of the King’s Bench, or other courts at Westminster. (*Canterbury’s Case*, 2 Rep. 46; 2 Haw. c. 27, s. 124.)

Where a statute directs a penalty to be recovered in any court of record, this shall not be intended of the quarter sessions, unless it be specially named in such statute; but only of the courts of record at Westminster. (6 Rep. 19, 20; 2 Hale, 29, 30.)

On the other hand, it seems that, if a statute names superiors, it includes inferiors. As, if a statute makes the securities given by the sureties of the farmers of the excise to be exempted out of the act of oblivion, *a fortiori*, the securities of the farmers themselves shall be exempted. (*R. Hard.* 424.)

Where the moiety of a penalty is given by statute to the treasurer of a county, riding, or division, the word “division” does not apply to small districts, such as the Cinque-Port of Seaford, in Sussex, but must be con-

7. *Repeal of Statute, &c.*

Express words to take away jurisdiction of superior courts.

Enactments in statute itself for its interpretation.

Rule for the interpretation of all criminal statutes.

Explanatory statutes.

Conflicting decisions on construction.

The judges are to be the construers.

Effect of wrong construction.

strued with reference to county and riding, and means something analogous to them. (*Evans, q. t., v. Stevens, 4 T. R. 224, 459.*)

Neither can it be applied to the different parts of a county in which the magistrates act under one general commission, but for the convenience of the county adjourn the quarter sessions from one part of it to another, and appoint a separate treasurer for each. (*Evans, q. t., v. Stevens, 4 T. R. 225, 459.*)

In general, nothing but express negative words will take away the jurisdiction of the Court of King's Bench. (See *R. v. Abbott, Douglas, 553, n. 1.*; *R. v. Fell, 1 B. & Adol. 380.*)

The statute itself, especially of late, frequently contains a clause laying down rules of interpretation of doubtful words and clauses therein, as do the statutes relative to Saving Banks, Friendly Societies, Lunatics, Watching and Lighting, Parishes, &c. &c.; and see these respective titles.

The following is the new and important provision of the 7 & 8 Geo. IV. c. 28, s. 14, relative to the interpretation of all criminal statutes. The words of the enactment are—"that wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject matter on or with respect to which it shall be committed, or the offender or the party affected or intended to be affected by the offence, hath used or shall use words importing the singular number of the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved."

Explanatory statutes should not be construed by any strained sense against the letter of the act; for, if any such exposition should be made, there would be no end of expounding. (*Butler and Baker's Case, 3 Rep. 25.*) They ought to be construed beneficially.

Where there are conflicting decisions upon the construction of a statute, the court must refer to that which ought to be the source of all such decisions; that is, the words of the statute itself. (*Per Ld. Ellenborough, R. v. Inhabitants of Leek Wootton, 16 East, 122.*)

The power of construing a statute is in the judges of the temporal courts, who, in cases of doubtful construction, are to mould them according to reason and convenience, to the best use. (*Sheffield v. Ratcliffe, Hob. 346; Plowd, 109; Heydon's Case, 3 Rep. 7.*) And that the courts of common law are intrusted with the exposition of statutes; (see *Gould v. Gapper, 5 East, 370; 1 Smith, 528, S. C.*; see further, *Bac. Ab. Statutes (H.)*.)

It seems that, if the weight of authority be in construing an act of Parliament one way, however wrong that way may be, the courts are bound by it. (See *Booth v. Ibbotson, 1 Y. & J. 360; 1 Bla. Com. 91.*)

VII. Repeal of Statute, what shall be, and its Effect.

Repeal of a statute, what shall be.

We have seen, *ante*, 858, how long a statute remains in force.

A statute may be repealed by the express words of a subsequent statute, or by implication.

The bare recital of a statute is not sufficient to repeal the positive provisions of a former statute, without a clause of repeal. (*Dore v. Gray, 2 T. R. 365.*)

A statute cannot be repealed by *nonuser*. (*White v. Boot, 2 T. R. 275.*)

Where the words of an act of Parliament are plain, it cannot be repealed by *nonuser*; yet, where there has been a series of practice without any ex-

ception, it goes a great way to explain the act where there is any ambiguity. (*Per Lord Kenyon, C. J., Leigh v. Kent*, 3 T. R. 364.)

7. Repeal of Statute, &c.

Where two acts of Parliament come into operation on the same day, and are repugnant, the one which last received the royal assent virtually repeals the other. (*R. v. Middlesex*, 1 Dowl. P. C. 116.)

Where the common law and a statute differ, the common law gives place to the statute; and an old statute gives place to a new one; and this upon a general principle of universal law, that "*leges posteriores priores contrarias abrogant*;" consonant to which it was laid down by a law of the twelve tables at Rome, that, "*quod populus podremum jussit, id jus ratum esto*." (1 Bla. Com. 89; Bac. Ab. Statutes (D.).)

Common law gives place to statute, and an old to a new one.

But this is to be understood only when the latter statute is couched in negative terms, or where its matter is so clearly repugnant, that it necessarily implies a negative. As, if a former act says, that a juror upon such a trial shall have twenty pounds a year, and a new statute afterwards enacts that he shall have twenty marks; here the latter statute, though it does not express, yet necessarily implies a negative, and virtually repeals the former; for if twenty marks be made qualification sufficient, the former statute, which requires twenty pounds, is at an end. (*Jenk. Cent.* 2, 73; *Owen v. Saunders*, 1 Ld. Raym. 160.)

The stat. 13 Geo. II. c. 28, s. 5, exempting generally from the impress service any harpooner, &c., or seaman in the Greenland fishery trade, is impliedly repealed by the 26 Geo. III. c. 41, s. 17, which exempts any harpooner, &c., whose name shall be inserted in a list required to be delivered on oath, &c.; and which also exempts any seaman entered on board any ship intended to proceed on the said fishery in the following season, whose name shall be inserted in a list, &c., and who shall give security, &c.; for the latter statute superadds the insertion of the seaman's name in such list as a condition precedent to the exemption. (*Ex-parte Carruthers*, 9 East's R. 4.)

So, the 43 Eliz. c. 2, s. 6, which gives an appeal without limitation as to time against overseers' accounts, is virtually repealed by the 17 Geo. II. c. 38, s. 4, which requires that the appeal shall be to the next general quarter sessions after allowance of the accounts. (*R. v. Justices of Worcestershire*, 5 Maul. & Sel. 457; and see 1 Price, 438.)

But, if both acts be merely affirmative, and the substance such that both may stand together, here the latter does not repeal the former, but they shall both have a concurrent efficacy.

The law does not favour a repeal by implication, nor is it to be allowed unless the repugnancy be quite plain: for as such repeal carries with it a reflection upon the wisdom of the former parliament, it has ever been confined to the repealing as little as possible of the preceding statute. (11 Rep. 63; *Forster's Case*, 1 Roll. R. 88; 10 Mod. 118; see *R. v. Inhabitants of Idle*, 2 Barn. & Ald. 149; *R. v. Drake*, 6 Maul. & Sel. 116; *Goldson v. Buch*, 15 East, 372.)

If, by a former law, an offence be indictable at the quarter sessions, and a latter law makes the same offence indictable at the assizes, here the jurisdiction of the sessions is not taken away, but both have a concurrent jurisdiction, and the offender may be prosecuted at either; unless the new statute subjoins express negative words: as, that the offence shall be indictable at the assizes, and not elsewhere. (*Foster's Case*, 11 Rep. 63; *Com. Dig. Parliament*, R. 9.)

The 23 Eliz. 1, which gives 20*l.* per month against a recusant, does not take away the penalty of 12*d.* for every Sunday, given by the 1 Eliz. c. 2. (*Foster's Case*, 11 Rep. 63 b.)

But, where affirmative words in sense contain a negative,—as, where a new ordinance is made which directs the form or order of the proceeding, it shall be otherwise. (*Pl. Com.* 113.)

Where a new act does not continue the old mode enacted in a prior act, but substitutes a new mode, the substitution of the new mode supersedes,

7. *Repeal of Statute, &c.*

Clause in act extending it to other acts.

New act does not repeal old, where it is not intended to do so.

Affirmative words do not take away common law.

Nor a former custom.

Or exemption.

Act lately made within equity of old act.

A statute extends to a provision made by a subsequent act.

Perpetual statute continued by another for a limited time.

with all its consequences, the old. A variation in the mode implies a change in the intention of the legislature. Had it been intended to continue the old system, the use of the old language, and the continuance of the old mode, would naturally have been expected. Where new language is introduced, and a new mode adopted, it must be supposed a new system was intended. (See, *per Bayley, J., Fearnley v. Morley*, 5 B. & C. 30; 7 D. & R. 832, S. C.; *Gray v. Shilling*, 2 B. & B. 3; 4 Moore, 371, S. C.)

In the construction of a general clause in a new act introducing new provisions and creating new liabilities, that the powers, provisions, exemptions, penalties, forfeitures, payments, remedies, matters, and things contained in a former act, relating to the same subject, except as varied by the present statute, should be as effectual for carrying the same into execution as if re-enacted; where the former act took away the right of *certiorari* it has been held that such right was taken away by the new act. (*R. v. Fell*, 1 B. & Adol. 380.)

Where the intention appears that the subsequent act shall not have such an operation, though the words, taken strictly and grammatically, would repeal a former act, the courts hold that they ought not to receive such a construction. (See *Williams v. Pritchard*, 4 T. R. 2.)

Affirmative words in an act of parliament, without any negative, express or implied, do not take away the common law. (*Pl. Com.* 112; 2 *Inst.* 200.)

Where, by the 1 Eliz. c. 2, a minister who does not read the common prayer shall lose the profits of his benefice for the first offence, and, being convicted, &c., for a second offence, shall be deprived; yet he might be deprived by the high commission erected by the power of the common law for the first offence, without a conviction, &c., or the methods directed by the statute. (5 *Rep.* 5 b.; *De Jur. Eccl.*; *Bac. Ab. Statutes*, (G).)

So general words do not take away a particular privilege or benefit: as the stat. Wil. II. c. 18, which gives an *elegit*, does not take away the privilege an infant has, that he shall not be sued during his non-age, if an *elegit* be against the heir of a conusor, being an infant. (2 *Inst.* 395.)

A power in an act of parliament to continue private ways does not alter the liability of parties to repair them. (*Anon. Lofft*, 465.)

So, where *Southwark* chose scavengers by custom, the 14 Car. II. c. 2, which says, *constables and churchwardens, &c., shall meet in Easter week, and choose*, does not take away a custom to choose at the leet. (*Dub. Mayor &c. of London v. Gatford*, 2 *Mod.* 41.)

So, affirmative statutes do not take away a prior exemption. (*R. v. Pugh*, *Dougl.* 188.)

An act lately made may be within the equity of an act made long since. (See *Vernon's case*, 4 *Rep.* 1.)

A statute extends to a provision made by a subsequent statute. Therefore, a statute shall be extended to cases provided by a subsequent statute; as, if extendors value goods too high, upon the stat. (*Acton Burnel*), 13 Edw. I., they shall take them at the same price as was provided by the stat. (*de Merc.*) 11 Edw. I. (*Hard.* 211.)

The st. (*M. Ch.* 9.) Hen. III. c. 9, which says "*omnes barones de quinque portibus habeant omnes libertates, et consuetudines suas*," shall be restrained to such liberties as are not taken away by another branch of the same statute; and therefore they shall not hold *placita coronæ*. (2 *Inst.* 31.)

A statute made in affirmance of the common law extends to all future times. (2 *Inst.* 236.)

If a statute, before perpetual, be continued by an affirmative statute, for a limited time, this does not amount to a repeal thereof at the end of that time. (*Raym.* 397; *Anon. Hob.* 215.)

But subsequent statutes, which add accumulative penalties, and institute new methods of proceeding, do not repeal former penalties and methods of proceeding ordained by preceding statutes without negative words. Nor hath a latter act of parliament ever been construed to repeal a

prior act, unless there be a contrariety or repugnancy in them, or at least some notice taken in the former law of the preceding one, so as to indicate an intention in the law-makers to repeal it. Neither is a bare recital in a statute, without a clause of repeal, sufficient to repeal the positive provisions of a former statute. (*Cowp.* 297; 2 *Atk.* 675; *Sharp v. Warren*, 6 *Price*, 131; *Dore v. Gray*, 2 *Term R.* 365.)

If a statute that repeals another is itself repealed afterwards, the first statute is hereby revived, without any formal words for that purpose. So, when the statutes of the 26 and 35 Hen. VIII., declaring the king to be the supreme head of the church, were repealed by a statute, 1 & 2 P. & M., and this latter statute was afterwards repealed by an act of 1 Eliz., there needed not any express words of revival in Queen Elizabeth's statute, but these acts of King Henry were impliedly and virtually revived. (4 *Inst.* 325.)

Where repealing statute repealed, the first statute revived.

But if a statute be repealed by several acts, a repeal of one act, and not of all, does not revive the first statute. (*Case of a Committee concerning Bishops*, 12 *Rep.* 8.)

If an expired statute be afterwards revived by another statute, the law derives its force from the first. (*Shipman v. Henbest*, 4 *T. R.* 109.)

Where a statute professes to repeal absolutely a prior law, and substitutes other provisions on the same subject, which are limited to continue only till a certain time, the prior law does not revive after the repealing statute is spent, unless the intention of the legislature to that effect be expressed. (*Warren v. Windle*, 3 *East*, 205.)

No proceedings can be pursued under a repealed statute, though commenced before the repeal, unless by special exception. (*Miller's case*, 3 *Wils.* 420; 1 *W. Bla.* 451, S. C.)

A contract declared by a statute to be illegal, is not made good by a subsequent repeal of the statute. (*Jacques v. Wittey*, 1 *H. Bla.* 65.)

When an act of Parliament is repealed, it must be considered (except as to transactions past and closed) as if it had never existed. (*Per Lord Tenterden*, C. J., 9 *B. & C.*, 752; 10 *B. & Cres.* 41.)

In March, 1825, a trader committed an act of bankruptcy, upon which a commission might have issued under the statutes relating to bankrupts then in force. On the 1st of May those statutes were repealed; on the 2nd of May the repealing act was repealed and the former acts thereby revived. In July a commission of bankrupt issued; it was held that it was supported by the act of bankruptcy committed in March. (*Phillips v. Hopwood*, 10 *B. & Cres.* 39; and see *Maggs v. Hunt*, 4 *Bingh.* 212; *Hewson v. Heard*, 9 *B. & Cres.* 754.)

VIII. How Disobedience to a Statute may be punished, &c.

Where a statute makes a new offence, which was no way prohibited by the common law, and appoints a particular manner of proceeding against the offender, as by a commitment, or action of debt, or information, without mentioning an indictment, it seems to be settled at this day, that it will not maintain an indictment, because the mentioning the other methods of proceeding only seems impliedly to exclude that of indictment: yet it hath been adjudged that if such statute gave a recovery by action of debt, bill, plaint, information, or otherwise, it authorizes a proceeding by way of indictment. (2 *Haw. c.* 25, s. 4.)

How far an indictment will lie, where another method of prosecution is appointed.

And if there be a prohibitory clause in the act, the offender may be indicted upon the prohibitory clause, notwithstanding the penalty; but otherwise it is, where the act is not prohibitory, but only inflicts the forfeiture, and specifies the remedy. (2 *Hale*, 171; *R. v. Wright*, 1 *Burr.* 544.)

But where the offence was antecedently punishable by a common law proceeding, and a statute prescribes a particular remedy by a summary proceeding, there either method may be pursued, and the prosecutor is at liberty to proceed either at common law or in the method prescribed by the statute: because in that case the sanction is cumulative, and doth not exclude the common law proceeding. (*R. v. Robinson*, 2 *Burr.* 803; *Sharp*

Stock in Funds and of Companies'. v. *Warren*, 6 *Price*, 131; *R. v. Carlile*, 3 *B. & Ald.* 161; "*Blasphemy*," Vol. I. p. 403.)

Where no method of prosecution is appointed.

Where defendant may be prosecuted both by the king and party grieved.

But every contempt of a statute is indictable where no other punishment is limited. (1 *Haw. c.* 22, s. 5; see "*Indictment*," Vol. III. p. 403, 404.)

And wheresoever an act of Parliament doth generally prohibit anything, the party grieved shall not only have his action for his private relief, but the offender shall be punished at the king's suit, for the contempt of the law. (2 *Inst.* 163.)

And when a new offence is created by one clause of an act, and a penalty annexed by a separate and substantive clause, a prosecutor may indict on the clause creating the offence, and is not obliged to sue for the penalty. (*R. v. Harris*, 4 *T. R.* 205.)

IX. Of pleading a Statute, and Proof of.

Pleading a statute, and proof of.

See the points noticed under title "*Indictment*," Vol. III. p. 433, 434; and see further, *Bac. Ab. Statutes* (L.).

As to the mode of proving a statute, see "*Evidence*," Vol. II. p. 43.

Stealing. See "*Larceny*," Vol. III.

Steam-Engines. See "*Malicious Injuries to Property*," Vol. III.; "*Nuisance*," Vol. III.

Stocks.

IT is said that every vill, of common right, is bound to provide a pair of stocks. (2 *Haw. c.* 11, s. 5; *Kitch.* 13. See "*Fleet*," Vol. III.)

They ought to be provided at the charge of the town; for, originally, they were not to punish, but to keep men in hold. (1 *Wood's Inst.* b. 4, c. 1.)

And the constable, by the common law, may confine offenders in the stocks by way of security, but not by way of punishment.

But, by divers statutes, the stocks are also appointed for the punishment of offenders, in sundry cases, after conviction.

Stock in the Funds and of Companies'.

AS to the Forgery of Stock in the funds or of companies, &c., see "*Forgery*," Vol. II. The 1 *Wil.* IV. c. 66, repeals the 8 *Geo.* I. c. 22, relative to this offence.

As to the Embezzlement of, by Brokers, &c., see "*Larceny*," Vol. III., p. 663; and as to the Stealing of Orders, &c., for, see *Id.* 671.

As to Conspiring to raise the Prices of, see "*Conspiracy*," Vol. I., p. 818.

If persons conspire to fabricate shares in addition to the limited number of shares of which a joint-stock company (according to its rules) consists, they may be indicted for it, notwithstanding any imperfection in the original conformation of the company. (*R. v. Mott*, 1 *Carr. & P.* 521.)

Quære.—Whether scrip receipts given by the bankers of such a company in return for sums paid as deposits, can be properly described as *shares* in the indictment? (*Ibid.*)

The 6 *Geo.* IV. c. 91, repeals the bubble act, 6 *Geo.* I. c. 18; and makes new provisions with respect to granting charters of incorporation to trading and other companies.

Stocking-Frames.

[28 Geo. III. c. 25.]

AS to the Damaging of Stocking-frames, &c., see 7 & 8 Geo. IV. c. 30, s. 3, "**Malicious Injuries to Property**," Vol. III. p. 837.

By the 28 Geo. III. c. 55, s. 1, if any framework-knitter, who shall rent or take by the hire any stocking-frame, either with or without any machine or engine thereto annexed, or therewith to be employed, shall refuse to yield up and re-deliver the same, with the machine or frame, to the person of whom he shall so rent it, after fourteen days' previous notice, he shall, on conviction by the oath or solemn affirmation of the owner or employer of such frame, or of any other witness, before one justice where the offence is committed, or where the person so charged shall inhabit, for every such offence forfeit 20s. to the poor; and, if not immediately paid, and such frame, &c., delivered up to the owner within six days after conviction, such justice shall commit such offender to goal, or other public prison, to hard labour, for any time not exceeding three nor less than one calendar month.

Framework-knitters hiring frames, and refusing to return them on notice.

Sects. 2 and 3. If any person so renting or taking to hire any stocking-frame, with or without such machine, as aforesaid, shall sell or unlawfully dispose thereof, or the machine, &c., therewith let, without the consent of the owner; or shall wilfully and knowingly receive or purchase any such, so sold or unlawfully disposed of, as aforesaid, contrary to the true intent and meaning of this act, every such offender, being convicted upon indictment, shall suffer solitary imprisonment in the gaol or house of correction for not less than three nor exceeding twelve calendar months.

Persons so hiring frames, and selling them.

Stolen Goods. See "**Accessory**," Vol. I; "**Larceny**," Vol. III.; "**Search-Warrant**," *ante*, p. 481.

Stores, Naval and Military.

See, *ante*, "**Ships**," ; "**Wreck**," *post*, Vol. VI.

[9 & 10 Wil. III. c. 41; 1 Geo. I. st. 2, c. 25; 9 Geo. I. c. 8; 17 Geo. II. c. 40; 2 Geo. III. c. 30; 12 Geo. III. c. 24; 39 & 40 Geo. III. c. 89; 49 Geo. III. c. 122; 54 Geo. III. cc. 60, 159; 55 Geo. III. c. 127; 55 Geo. III. c. 80; 4 Geo. IV. c. 53; 7 & Geo. IV. c. 27.]

AS to the receivers of anchors, cables, &c., see "**Accessory**," Vol. I. p. 37. By the 9 & 10 Wil. III. c. 41 (made public by the 1 Geo. I. st. 2, c. 25, s. 14), after reciting that, "notwithstanding divers good laws made and enacted, for the preventing of the stealing and embezzlement of his majesty's stores of war, and naval stores, those frauds, thefts, and embezzlements are frequently practised, and the convicting of such offenders is rendered difficult and impracticable, by reason it rarely happens that direct proof can be made of such offender's immediate taking, embezzling, or carrying away any of his majesty's said stores of war and naval stores out of or from his majesty's storehouses, docks, yards, ships, ordnance, or other places for keeping and preserving the same, but only that such goods are marked with the king's mark, and found in the custody and possession of the said person accused of stealing or embezzling the same, to the great encouragement of

Receivers of stolen anchors. &c.

9 & 10 Wil. 3, c. 41.

Stores, Naval and Military.

9 & 10 W. 3, c. 41.

No warlike or naval stores, except for the king's use, shall be made with the king's marks, &c.

Penalty.

Penalty on persons in whose custody such marked stores are found, &c. (a);

unless he produce a certificate, &c.

Commissioners of the navy, ordnance, &c., may sell any of the said stores so marked, &c.

Buyer to have a certificate thereof, &c.

Quantities to be expressed.

such wicked offenders, and to his majesty's and the kingdom's great damage: for preventing such embezzlements for the future, and for the more effectual execution of the laws and statutes already in force against such embezzlements and thefts," it is enacted, "that it shall not be lawful to or for any person or persons whatsoever, other than persons authorized by contracting with his majesty's principal officers or commissioners of the navy, ordnance, or victualling-office, for his majesty's use, to make any stores of war or naval stores whatsoever, with the marks usually used to and marked upon his majesty's said warlike and naval or ordnance stores; that is to say, any cordage of three inches and upwards, wrought with a white thread laid the contrary way, or any smaller cordage, to wit, from three inches downwards, with a twine in lieu of a white thread, laid to the contrary way as aforesaid (a), or any canvass wrought or unwrought, with a blue streak in the middle, or any other stores with the broad arrow, by stamp, brand, or otherwise, upon pain that every such person or persons, who shall make such goods so marked as aforesaid, not being a contractor with his majesty's principal officers or commissioners of the navy, ordnance, or victuallers, for his majesty's use, or employed by such contractor, for that purpose as aforesaid, shall, for every such offence, forfeit such goods, and the sum of 200*l.*, together with costs of suit; one moiety whereof shall be to his majesty, and the other moiety to the informer, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, injunction, or order of restraint, nor more than one imparlance, shall be allowed."

Sect. 2. "Such person or persons, in whose custody, possession, or keeping, such goods or stores marked as aforesaid shall be found, not being employed as aforesaid, and such person or persons who shall conceal such goods or stores marked as aforesaid, being indicted and convicted of such concealment, or of the having such goods found in his custody, possession, or keeping, shall forfeit such goods, and the sum of 200*l.*, together with the costs of prosecution, one moiety to his majesty, and the other moiety to the informer, to be recovered as aforesaid, and shall also suffer imprisonment until payment and performance of the said forfeiture, unless such person shall, upon his trial, produce a certificate under the hand of three or more of his majesty's principal officers or commissioners of the navy, ordnance, or victuallers, expressing the numbers, quantities, or weights of such goods, as he or she shall then be indicted for, and the occasion and reason of such goods coming to his or her hands or possession" (b).

Sect. 4. "The said principal officers or commissioners of the navy, ordnance, or victualling-office for the time being, may sell and dispose of any of the stores aforesaid, so marked as aforesaid, as they did or might have done before the making of this act; and that such person or persons as heretofore have or shall hereafter buy any such stores, or other stores so marked as aforesaid, of the said principal officers or commanders, or by their order, may keep and enjoy the same without incurring the penalty of this act, or any law to the contrary whatsoever, upon producing a certificate or certificates under the hand and seal of three or more of the said principal officers or commissioners of the navy, ordnance, or victualling-office, that they bought such goods from them the said principal officers or commissioners, or from such person or persons as did buy the said stores from the said principal officers or commissioners, at any time before such stores were found in their custody; in which certificate or certificates the quantities of such stores shall be expressed, and the time when and where bought of the said commissioners, who, or any three or more of them, for the time being, are

(a) Extended by 54 Geo. III. c. 60, *post*, 892, to cordage worked with worsted threads; and by 55 Geo. III. c. 127, *post*, 892, so far as it related to naval stores, to all public stores, &c., and to all persons not authorized intermeddling

therewith.

(b) See 9 Geo. I. c. 8, ss. 3, 4, &c., and *Coles's case*, *post*, p. 879. By the 17 Geo. II. c. 40, *post*, 880, the offence may be tried at the sessions or assizes.

hereby empowered and directed, from time to time, to give to such person or persons, who shall desire the same, and have bought, and shall hereafter buy any of the aforesaid stores, within thirty days after the sale and delivery of the said stores so sold, or to be sold as aforesaid." *Stores, Naval and Military.*
9 & 10 W. 3, c. 41.

Sect. 5. "In case any person or persons shall be sued or prosecuted for or by reason of their discovering or seizing any such stores or goods so marked as aforesaid, that in every such case, such persons so sued or prosecuted, may plead the general issue, and give this act and the special matter in evidence. And in case, that upon the trial of such issue, the defendants so sued shall make proof, that such goods or stores, so discovered or seized by them, were so marked as aforesaid, and that the plaintiffs or prosecutors in such suit or prosecution shall not at such trial make good proof that they were so employed, or had such certificate as aforesaid, before such discovery and seizure made, and that they did show the same unto such defendants before such suit or prosecution commenced or brought, such defendant shall be acquitted and found not guilty thereupon; unless such defendants, upon sight of such certificate, did not deliver back unto such plaintiffs or prosecutors, at their request, or otherwise, all such goods and stores so seized, in as good plight and condition as they were at the time of such certificate shown; and in case any such defendants shall be so or otherwise acquitted on such trial, and that such plaintiffs or prosecutors shall discontinue such their suit or prosecution, or be nonsuited therein, such defendants shall recover treble costs." Persons sued may plead the general issue, &c.

Evidence.

The presumption of the *malus animus*, arising from the bare fact of possession of the goods, may, of course, be rebutted by circumstances. (2 E. P. C. 765; *Coll. Statutes*, 112, note; *post*, p. 880, 881.)

By the 1 Geo. I. st. 2, c. 25, s. 3, any of the principal officers or commissioners of the navy may issue warrants to search for naval stores, as justices may in cases of felony, and punish the offenders by fine not exceeding 20s., or imprisonment not exceeding one week, the value of the goods not exceeding 20s.; and if the offence requires a higher punishment, may commit him to the next gaol or to the custody of their messenger, till he finds surety or sureties to appear in the Exchequer, or other court, where the king shall question him for the same within one year, on process duly served for that purpose on such offender. 1 Geo. I, st. 2. c. 25.
Summary jurisdiction in cases of small embezzlements, &c.

Sect. 6. And every person who shall counterfeit the hand of the treasurer, controller, surveyor, clerk of the acts, or of any commissioner of the navy, or the hand of the signing or vouching officer of his majesty's navy, ships, or yards, to any bill, ticket, or papers, by virtue whereof his majesty's naval treasure may be disposed of, or knowingly produce the same, he may be committed to prison by the said officers and commissioners, or any of them, until he find surety to appear at the next assizes or quarter sessions, to be there proceeded against according to law. Counterfeiting the hand of the treasurer, &c.

By the 9 Geo. I. c. 8, s. 3, reciting that, by the 9 & 10 Wil. III. c. 41, "a penalty of 200*l.*, with costs of prosecution and pain of imprisonment, is inflicted upon persons having in their custody, possession, or keeping, or concealing, contrary to the said act, any warlike, naval, or ordnance stores therein mentioned, or any other stores marked with the broad arrow, by stamp, brand, or otherwise: and whereas it is necessary to give power to mitigate the said penalties, and to explain and amend the said act," it is enacted, "that if any person or persons shall be lawfully convicted of having in his, her, or their custody, any timber, thick stuff, or plank, marked with the broad arrow, by stamp, brand, or otherwise, or of concealing any timber, thick stuff, or plank, so marked, every such person so offending shall suffer, forfeit, and pay, as for having, keeping, or concealing any other warlike, naval, or ordnance stores contrary to the said act." 9 Geo. I, c. 8, having marked timber, altering 9 & 10 Wil. 3, c. 41.

Sect. 4. "It shall and may be lawful to and for any judge, justice, or justices, before whom any offender or offenders shall be convicted of any of the crimes before recited, enacted, or mentioned in this act, to mitigate the penalty for the same, as he or they shall see cause, and to commit the Mitigation of penalties in last act.

*Stores, Naval
and Military.*

9 & 10 W. 3, c. 41.

offender or offenders so convicted to the common gaol of the county or place where the offence shall be committed, there to remain without bail or mainprize, until payment be made of the penalty and forfeiture imposed by this or the said former act, or mitigated as aforesaid, or to punish such offender or offenders corporally, by causing him, her, or them to be publicly whipped, or (a) committed to some public workhouse, there to be kept to hard labour, for the space of six months, or a less time, as to such judge, justice, or justices, in his or their discretion shall seem meet; anything in the said recited act or in any other act to the contrary notwithstanding."

17 Geo. 2, c. 40.

And the 17 Geo. II. c. 40, s. 10, also reciting, that "some doubts having arisen touching the method of trial and punishment of offenders against the said recited acts, whether, as the said acts are worded, such offender or offenders may be indicted and tried for the crimes and offences in the said acts mentioned, and whether any judge, justice, or justices of assize, or justices of the peace at the sessions, may hear, try, and determine the same, and on conviction set such fine, or mitigate the same, and the forfeitures and penalties inflicted by the aforesaid acts, on such offender or offenders, as the nature of the offences may deserve; or whether such offenders as aforesaid, in order for recovering the said forfeitures and penalties inflicted by the said act, can only be proceeded against by action of debt, bill, plaint, or information, in some of his majesty's courts of record at Westminster; by reason of which doubts, it has so happened, that offenders against the said recited acts, having been indicted for the same, have escaped unpunished, to the great encouragement of such offenders and others to commit the like crimes and offences for the future; for the remedying whereof, and for the explaining the acts above mentioned," declares and enacts, "that it shall and may be lawful to and for any judge, justice, or justices at the assizes, or justices of the peace at the general quarter sessions to be holden for any county, city, borough, or town corporate, to hear, try, and determine, by indictment or otherwise, all or any the crimes or offences mentioned in the said recited acts; and that the said judge, justice, or justices of assize, or justices of the peace, as aforesaid, before whom such offender or offenders shall be indicted, or tried, and convicted of all or any the crimes or offences in the said recited acts mentioned, may impose any fine, not exceeding the sum of 200*l.*, on such offender or offenders; one moiety to be paid to his majesty, and the other moiety to the informer; and may mitigate the said penalty and forfeitures, inflicted by the said recited acts, or either of them, and to commit the offender or offenders so convicted and fined to the common gaol of the county or place where the offence shall be committed; there to remain without bail or mainprize, until payment be made of the penalty and forfeitures imposed by this or the said former acts, so mitigated as aforesaid; or, in lieu thereof, to punish such offender or offenders in the premises corporally, by causing him, her, or them to be publicly whipped, and committed to some house of correction, or public workhouse, there to be kept to hard labour for the space of three months, or less time, as to such judge, justice, or justices of assize, or justices of the peace, shall in his or their discretion seem meet; anything in the said recited acts or in any other act to the contrary notwithstanding."

Justice of assize
or quarter ses-
sions may try
offences relating
to the stores, &c.

Decisions thereon.

Under this act the court have authority to adjudge the offender to suffer corporal punishment, although he be ready and offer to pay the penalty of 200*l.* (*Bland's case*, 2 *E. P. C.* 760; 5 *T. R.* 370, *S. C.*) In this case the defendant's counsel contended that, as their client could pay the penalty, the court had no authority to inflict corporal punishment. But the court said that the words of the statutes were in the disjunctive, enabling them either to impose a penalty, or to punish the offender corporally; and that this construction had already been put on the statutes in several instances,

(a) It is to be observed, that in this stat. 9 Geo. I. c. 8, s. 4, it is *or* committed. In the 17 Geo. II. c. 40, s. 10, it is *and* committed.

particularly in the case of *R. v. Newell*, *M. 33 G. 3.* And this appearing to the court to be a gross case, they sentenced the defendant to Clerkenwell Prison for three months, there to be kept to hard labour, and during that time to be publicly whipped on Clerkenwell Green for the space of 100 yards.

Though there was no instance prior to *Trinity* term, 46 Geo. III., in which the defendant had been ordered to pay the costs, the Court of King's Bench adjudged the defendant (*A. Chapple*) to pay the penalty of 200*l.*, together with the costs. (5 *T. R.* 371, note (a)).

The power of sentencing to hard labour is considered to be taken away by the 39 & 40 Geo. III. c. 89, s. 2, *post*, 882. (*R. v. Bridges*, 8 *East*, 53.) The defendant was brought up to receive judgment after conviction on the 9 & 10 Wil. III. c. 41, s. 2, for unlawfully having in his possession naval stores, &c., and judgment was about to be pronounced that he should be imprisoned in the house of correction for the county of Surrey, and there kept to hard labour for three calendar months, and once during that time publicly whipped. This would have been warranted by the 17 Geo. II. c. 40, s. 10, reciting the 9 & 10 Wil. III. c. 41, and 9 Geo. I. c. 8; but a doubt occurring how far the power of sentencing to hard labour was taken away by the subsequent stat. 39 & 40 Geo. III. c. 89, s. 2, the court, upon further consideration and comparing the different provisions of these statutes, were of opinion that the power of sentencing to hard labour was taken away by the latter statute, and therefore pronounced judgment that the defendant should be imprisoned in the house of correction for the county of Surrey for three calendar months, and be once during that time publicly whipped.

By the 9 Geo. III. c. 30, s. 5, the treasurer, controller, surveyor, clerk of the acts, or any commissioner of the navy, may act as justices, in causing the offenders to be apprehended, committed, and prosecuted for the same.

By the 12 Geo. III. c. 24, if any person shall, either in this realm, or in any other place thereto belonging, wilfully and maliciously set on fire, burn, or otherwise destroy, or cause or aid therein, any of his majesty's military, naval, or victualling stores or other ammunition of war, or any place where any such stores or ammunition shall be placed or kept, he, his aiders and abettors, shall be guilty of felony. And they who commit such offence out of the realm may be tried either where the offence was committed, or in any county within this realm. (2 *East's P. C.* 1094. See this enactment in full, *ante*, p. 651.)

The 39 & 40 Geo. III. c. 89, recites the 9 & 10 Wil. III. c. 41; 9 Geo. I. c. 8; and 17 Geo. II. c. 40, s. 10; and reciting, that "notwithstanding the penalties and punishments inflicted by the said recited acts, the stealers, embezzlers, and receivers of his majesty's warlike, and naval, ordnance, and victualling stores have greatly increased, so that it has become necessary to make some further and more effectual provision for preventing their wicked practices in future," enacts, "that from and after the passing of this act, every person or persons (such person or persons not being a contractor or contractors, or employed as in the said recited act of the 9th and 10th years of the reign of King William the Third is mentioned,) who shall willingly or knowingly sell or deliver, or cause or procure to be sold or delivered, to any person or persons whomsoever, or who shall willingly or knowingly receive, or have in his, her, or their custody, possession, or keeping, any stores of war, or naval, ordnance, or victualling stores, or any goods whatsoever marked as in the said recited acts are expressed, or any canvass marked either with a blue streak in the middle, or with a blue streak in a serpentine form, or any bewper, otherwise called bunting, wrought with one or more streaks of raised tape (the said stores of war, or naval, ordnance, or victualling stores or goods above mentioned, or any of them, being in a raw or unconverted state, or being new, or not more than one-third worn), and such person or persons who shall conceal such stores or goods, or any of them, marked as aforesaid, shall be deemed receivers of stolen goods, knowing them to have been stolen, and shall, on being convicted thereof in due form

Stores, Naval and Military.

Decisions on 17
Geo. 3, c. 40.

9 Geo. 3, c. 30.

12 Geo. 3, c. 24.
Burning or de-
stroying stores.

39 & 40 Geo. 3,
c. 89.

Every person (not being a contractor, &c.,) who shall sell or receive any new stores of war, &c., or who shall conceal them, shall be deemed receivers of stolen goods, and, as such, transported for fourteen years, unless he produces, on the trial, a certificate from the navy board, &c.

*Stores, Naval and Military.*39 & 40 Geo. 3,
c. 89.

Persons in whose custody shall be found canvass or bunting, marked as herein mentioned (not being charged to be new, or not more than one-third worn), and persons who shall be convicted of any offence contrary to so much of the recited act of 9 & 10 Wil. 3, as relates to warlike stores, shall, besides the forfeiture thereby imposed, suffer corporal punishment. Penalty, 200*l.*, may be mitigated.

Nothing herein, or in recited act of 9 & 10 Wil. 3, shall exempt contractors, &c., except so far as concerns stores which shall not have been before delivered into his majesty's store, unless they have been sold, or returned by the commissioners.

Defacing mark on his majesty's stores, felony.

Second offence.
Punishment for.

of law, be transported beyond the seas for the term of fourteen years, in like manner as other receivers of stolen goods are directed to be transported by the laws and statutes of this realm, unless such person or persons shall, upon his, her, or their trial, produce a certificate under the hands of three or more of his majesty's principal officers or commissioners of the navy, ordnance, or victualling, expressing the numbers, quantities, or weights of such stores or goods, as he, she, or they shall then be indicted for, and the occasion and reason of such stores or goods coming to his, her, or their hands or possession."

Sect. 2. "Such person or persons (not being a contractor or contractors, or employed as aforesaid), in whose custody, possession, or keeping, any of the said stores called canvass, marked with a blue streak in a serpentine form, or bewper, otherwise called bunting, wrought as above mentioned, shall be found (such canvass or bewper, otherwise called bunting, not being charged to be new, or not more than one-third worn), and all and every person and persons who shall be convicted of any offence contrary to so much of the said recited act of the 9th and 10th years of the reign of King William the Third, as relates to the making, or having in possession, or concealing any of his majesty's warlike, or naval, or ordnance stores, marked as therein specified, shall, besides forfeiting such stores, and the sum of 200*l.*, together with costs of suit as therein mentioned, be corporally punished by pillory (*a*), whipping, and imprisonment, or by any or either of the said ways and means, in such manner and for such space of time as to the judge or justices before whom such offender or offenders shall be convicted, shall seem meet; anything in the said last-mentioned act, or in the before-recited acts of the 9th year of King George the First, and the 17th year of King George the Second, to the contrary thereof in anywise notwithstanding; provided always, that it shall and may be lawful to and for such judge or justices to mitigate the said penalty of 200*l.*, as he or they shall see cause."

Sect. 3. "Nothing in this act, or in the said recited act of the 9th and 10th years of the reign of King William the Third, contained, shall extend, or be deemed, taken, or construed to extend to exempt from the operation of this act, or the said recited act respectively, any person or persons being a contractor or contractors, or employed as in the said last-mentioned act is mentioned, except only so far as concerns stores or goods marked as aforesaid, which shall be *bonâ fide* provided, made up, or manufactured by such person or persons, or by their order, and which shall not have been before delivered into his majesty's store, unless, having been so delivered, they shall have been sold or returned to such person or persons by the commissioners of his majesty's navy, ordnance, or victualling respectively."

Sect. 4. "If any person or persons shall, from and after the passing of this act, wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate or erase, wholly or in part, any of the marks in the said act of the 9th and 10th years of the reign of King William the Third, or in this act mentioned, or any other mark whatsoever, denoting the property of his majesty, his heirs or successors, in or to any warlike, or naval, ordnance, or victualling stores, or cause, procure, employ, or direct any other person or persons so to do, for the purpose of concealing his majesty's property in such stores, such person or persons shall be deemed guilty of felony, and shall, on being convicted thereof, be transported to parts beyond the seas for the term of fourteen years, in like manner as other felons are directed to be transported by the laws and statutes of this realm."

Sect. 5. "If any person or persons who shall hereafter be convicted of any offence contrary to this act, for which he shall not have been transported beyond the seas, or contrary to the said recited act of the 9th and 10th years of King William the Third, shall be guilty of a second offence, either contrary to that act or to this present act, which would not otherwise, as the first offence, subject him, her, or them to transportation, and shall be thereof

(*a*) Abolished by 56 Geo. III. c. 138, except as to perjury and subornation thereof.

legally convicted, such person or persons shall, by judgment of the court wherein he, she, or they shall be so convicted, be transported to parts beyond the seas for the term of fourteen years, in like manner as other offenders may be transported by the laws and statutes of this realm now in force.”

Stores, Naval and Military.

39 & 40 Geo. 3, c. 89.

Sect. 6. “If any person or persons transported in pursuance of this act, shall return into any part of Great Britain or Ireland before the end or expiration of the term for which he or she shall have been so transported, every such person or persons so returning shall suffer as felons, and shall have execution awarded against him, her, or them, as persons attainted of felony without benefit of clergy.”

Returning from transportation.

Sect. 7. “It shall and may be lawful to and for the court before whom any offender or offenders shall be indicted and convicted of all or any of the crimes or offences hereinbefore mentioned to be punishable with transportation, to mitigate or commute such punishment, by causing the offender or offenders to be set on the pillory (a), publicly whipped, fined, or imprisoned, or by all or any one or more of the said ways and means, as such court in its discretion shall think fit; one moiety of which fine (if any imposed) shall be to his majesty, his heirs and successors, and the other moiety thereof to the informer, and also to order such offender or offenders to be imprisoned until such fine be paid; anything hereinbefore contained to the contrary thereof in anywise notwithstanding.”

Mitigation of punishment.

Sects. 8, 9, and 10 give rewards for apprehending offenders. But by 2 Wil. IV. c. 40, s. 34, these rewards are reduced, and instead thereof the following rewards shall be paid, that is to say, “any sum not exceeding 10*l.* upon convictions in prosecutions by indictment, and not exceeding 50*s.* upon summary convictions, in the respective cases mentioned in the said act; and that no reward shall be payable in cases where the fine inflicted on the offender shall amount to 20*l.*, unless such fine shall fail to be paid as provided in the said act; and that it shall be lawful to mitigate the pecuniary penalty of 10*l.*, in cases of summary convictions, to any sum not less than 40*s.*”

Rewards for apprehending offenders.

Sect. 11. “It shall and may be lawful to and for any commissioner of the navy, ordnance, or victualling, for the time being (who, for the purposes hereinafter mentioned, is hereby authorized to act in every respect as if he had been named as a justice of the peace in the commission of the peace for the county, city, division, town corporate, liberty, or place in which he shall be resident, or into which his warrant shall be issued), or any justice of the peace for any county, division, city, town corporate, liberty, or place, within this kingdom, upon the oath of one or more credible person or persons, that there is reason or cause to suspect that any navy, ordnance, or victualling stores or goods belonging to his majesty, his heirs or successors, are concealed in any dwelling-house, warehouse, workshop, outhouse, yard, garden, or other place, or on board any ship, vessel, barge, boat, or other craft, by warrant under his hand and seal, to cause every such dwelling-house, warehouse, workshop, outhouse, yard, garden, or place, ship, vessel, barge, boat, or other craft, in whatsoever county, division, city, town corporate, liberty, or place, the same or any of them shall be (in case such warrant shall be granted by a commissioner as aforesaid), to be searched in the day-time by any police-officer, constable, headborough, or other peace-officer, either of the county, division, city, town corporate, liberty, or place in which the premises, ship, vessel, barge, boat, or other craft shall be, or in which the commissioner granting such warrant (if granted by a commissioner) shall then reside; and in case any stores or goods marked as hereinbefore or in the said recited act of the 9th and 10th years of King William the Third is mentioned, shall upon such search be found, to cause the same, and the offender or offenders, to be brought before such commissioner or justice of the peace, who is hereby required to commit or bind over, or otherwise to deal with such offender or offenders according to law, for such his or their offence; and that in case, upon any such search, or upon any seizure whatsoever of stores or goods, marked as aforesaid, any naval, ordnance, or victualling stores, not so

Houses, &c., may be searched where stores are suspected to be concealed.

(a) Abolished by 56 Geo. III. c. 138, except as to perjury and subornation thereof.

*Stores, Naval
and Military.*

39 & 40 Geo. 3,
c. 89.

Persons deputed
may detain craft,
&c., suspected of
having stolen arti-
cles on board.

marked as aforesaid, shall be found, which may reasonably be suspected to belong to his majesty, the party or parties in whose possession or keeping the same shall be found shall be required to give to the commissioner or justice of the peace respectively before whom the said stores or goods shall and may be brought, an account to the satisfaction of such commissioner or justice, that the same were not embezzled or stolen from any of his majesty's ships or vessels, yards, storehouses, or other places, or that, if the same were embezzled or stolen, the same had come to the possession of the said party or parties honestly, and without any knowledge or suspicion that the same had been embezzled or stolen; on failure whereof by a reasonable time, to be set by such commissioner or justice of the peace, the said stores or goods shall thereupon become forfeited, and such party or parties shall be deemed and adjudged guilty of a misdemeanor."

Sect. 12. "It shall and may be lawful for any person or persons deputed or appointed by the principal officers or commissioners of the navy, ordnance, or victualling, or any three of them respectively, at any time or times from and after the passing of this act, to stop, search, and detain in some place of safety, any barge, boat, or other craft, which there shall be reason to suspect doth contain any naval, ordnance, or victualling stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things stolen, embezzled, or unlawfully procured from or out of any of his majesty's ships or vessels, yards, storehouses, or other places, and also to apprehend and detain, or cause to be apprehended and detained, any person or persons who may be reasonably suspected of having or conveying any such stores or other things in such barge, boat, or craft, and such person or persons so apprehended shall be (as soon as conveniently may be) conveyed before any commissioner of the navy, ordnance, or victualling, for the time being, or before one or more justice or justices of the peace for the county, division, city, town corporate, liberty, or place in which such seizure shall be made, together with the stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things so found in such boat or other craft; which said commissioner or justice is hereby required to commit or bind over, or otherwise to deal with such person or persons according to law, in respect to any of the said last-mentioned stores and things which shall be so marked as aforesaid; and in respect to any of such stores and things which shall not be so marked, but which shall nevertheless be reasonably suspected to be the property of his majesty, the said person or persons on whom the same shall be found shall be required to give an account, to the satisfaction of such commissioner or justice, that the same were not embezzled or stolen as aforesaid, or that, if they were embezzled or stolen, the same had come to his or their possession honestly, and without any knowledge or suspicion that the same had been embezzled or stolen; on failure whereof, by a reasonable time, to be set as aforesaid, the said last-mentioned stores or things shall thereupon become forfeited, and the said person or persons so apprehended shall be deemed and adjudged guilty of a misdemeanor; and in case the said person or persons shall be convicted of stealing, embezzling, or unlawfully having in his, her, or their possession any of the said stores or things which shall be so marked as aforesaid, or shall be adjudged guilty of a misdemeanor for not giving a satisfactory account as aforesaid, with respect to such of the said stores or things as shall not be so marked as aforesaid, such barge, boat, or other craft in which such stores or things, or any of them, shall be found, with its tackle, apparel, and furniture, shall, upon such conviction or adjudication, become and be adjudged by such commissioner or justice forfeited, and shall be disposed of in manner hereinafter mentioned."

Persons so de-
puted may ap-
prehend suspected
persons.

Sect. 13. "It shall and may be lawful to and for any person or persons deputed or appointed as aforesaid, or any police-officer, constable, headborough, or other peace-officer, or any beadle or watchman (during such time as he shall be on duty) of every parish and place where he shall be an officer, to apprehend and detain, or cause to be apprehended and detained, all and every person and persons who may reasonably be suspected of having or carrying, or anyways conveying any naval, ordnance, or victualling stores,

topes, tackle, apparel, furniture, arms, ammunition, materials, and things stolen or unlawfully procured from or out of any of his majesty's ships or vessels, yards, storehouses, or other places, and also to seize and detain in some place of safety, such stores, materials, or things as last aforesaid; and, as soon as conveniently may be, to convey, or cause the person or persons so apprehended to be conveyed before any commissioner of the navy, ordnance, or victualling, or before any one or more justice or justices of the peace for any county, division, city, town corporate, liberty, or place in or near to the place of seizure, together with the said stores and other things; and such and the like proceedings shall and may be had and taken against the said person or persons, in respect of such last-mentioned stores or things, whether marked or not marked, and such forfeiture be incurred, and adjudication made, as are above directed with respect to stores found in any barge, boat, or other craft as aforesaid."

Stores, Naval and Military.

39 & 40 Geo. 3,
c. 89.

Sect. 14. "All and every the stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things, which are hereinbefore declared to be forfeited on the party or parties not giving to the commissioner or justice a satisfactory account that the same were not embezzled or stolen as aforesaid, shall be forthwith returned into his majesty's store, and shall be applied for the use and benefit of his majesty, his heirs and successors, unless proof shall be made within three calendar months next following such seizure, to the satisfaction of such commissioner or justice of the peace, that the same stores and other things are the property of any other person or persons; in which case the said commissioner or justice shall cause the same to be forthwith delivered up to such person or persons, on his or their giving a proper receipt or discharge for the same, and paying the reasonable costs and charges (to be set by such commissioner or justice) attending the conveyance thereof to and from his majesty's store, and the warehousing or safe custody thereof from the time of the seizure."

Articles herein
declared forfeited
to be returned
into his majesty's
stores.

Sect. 15. "It shall and may be lawful to and for such commissioner or justice of the peace respectively, by whom any barge, boat, or other craft shall be adjudged to be forfeited in pursuance of this act, and he is hereby authorized and required forthwith, after such adjudication, to issue his warrant to the collector or other chief officer of the customs at the port at or nearest to the place where such seizure shall be made, for the sale of such barge, boat, or other craft; which said collector or other chief officer, by virtue thereof, shall and is hereby authorized and required, within one month then next following, to cause such barge, boat, or other craft, together with its tackle, apparel, and furniture, to be publicly sold to the highest bidder, notice of which sale shall be given in some or one of the public papers in circulation in the city, town corporate, or place where such sale shall be made; and the money arising from such sale, after payment of the reasonable expenses and charges attending the same, and of securing such barge, boat, or other craft from the time of the seizure thereof (to be ascertained by such commissioner or justice of the peace), shall thereupon be forthwith paid by such collector or other officer of the customs into the hands of such commissioner or justice of the peace respectively, and be by such commissioner or justice within one calendar month then next following paid and disposed of in the manner following; (that is to say,) one moiety thereof to the person or persons (or his or their representatives, if dead) who shall have made seizure of such barge, boat, or other craft, and the other moiety thereof to the treasurer of his majesty's navy for the time being (in case the stores seized shall be naval or victualling stores), to be by him applied in such and the same manner as the monies arising from the sale of old stores in his majesty's dock-yards now are, or for the time being shall be applicable; and in case the stores seized shall be ordnance stores, then the said other moiety shall be paid to the treasurer of his majesty's ordnance for the time being, to be by him applied in such manner for the use of his majesty, as the master-general and principal officers of his majesty's ordnance for the time being shall order and direct."

Craft, &c., for-
feited, may be
sold.

Sect. 16. "Every person deemed and adjudged guilty of any of the mis- Penalty on per-

Stores, Naval and Military.

39 & 40 Geo. 3,
c. 89.

sons guilty of misdemeanors.

demeanors aforesaid, before any commissioner or justice of the peace as aforesaid, shall for every such misdemeanor forfeit for the first offence the sum of 40s., for the second offence the sum of 5*l.*, and for the third and every subsequent offence the sum of 10*l.*, over and above the other forfeitures above mentioned: all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender (rendering to him or them the overplus, after the charges of the said distress and sale deducted), by warrant under the hand and seal of such commissioner or justice of the peace, before whom such offender was convicted, directed to any constable or other peace-officer of the county, division, city, town corporate, liberty, or place, and shall be disposed of in the manner following; (that is to say,) one moiety to the person or persons apprehending such offender or offenders, or giving information, as the case shall be, and the other moiety thereof to the treasurer of the navy or ordnance for the time being, as the case may require, to be applied as before mentioned; and in case the constable or other peace-officer to whom such warrant shall be directed, shall return to such commissioner or justice of the peace that the offenders or offender named therein have not or hath not any goods or chattels in his county or constablewick, whereby he can levy the said penalty (which return the said constable or other peace-officer is hereby required in that case to make within a reasonable time, to be set by the said commissioner or justice of the peace, and during which time the said offenders or offender shall be kept in safe custody by the order of such commissioner or justice of the peace), then and in such case the said commissioner or justice shall, and he is hereby required, by warrant under his hand and seal, directed as aforesaid, to cause such offenders or offender to be committed to the common gaol of the county, division, city, town corporate, liberty, or place, in which such seizure shall have been made, there to remain without bail or mainprize for the space of three calendar months, unless such penalty shall be sooner paid."

Adjudications of misdemeanors to be certified to the sessions.

Sect. 17. "Every adjudication in any of the said misdemeanors shall be certified by the commissioner or justice of the peace making the same, to the next general or quarter sessions of the peace for the county, division, city, town corporate, or place in which such seizure shall be made, to be filed and entered amongst the records of the said session; and such conviction shall not be set aside or quashed for want of form, nor be liable to be removed by *certiorari*, advocacy, or suspension into any other court, but shall be deemed and taken to be final, to all intents and purposes whatsoever."

One commissioner or justice may determine offences, where the value of the stores does not exceed 20*s.*

Sect. 18. "It shall and may be lawful to and for any principal officer or commissioner of the navy, ordnance, or victualling for the time being, or any justice of the peace for any county, division, city, town corporate, liberty, or place within this kingdom, to hear and determine any complaint against any person or persons (not being a contractor or contractors, or employed as aforesaid) for unlawfully selling or delivering, or causing or procuring to be sold or delivered, or for receiving or having in his, her, or their custody, possession, or keeping, or for concealing any stores of war, or naval, ordnance, or victualling stores or goods marked with such marks, respectively, as are hereinbefore mentioned, of any value, in the whole not exceeding 20*s.*; which said commissioner or justice respectively is hereby authorized and required, upon any information exhibited or complaint made in that behalf, at any time within three calendar months next after any such offence shall have been committed, to cause the party or parties accused to be apprehended and brought before him; or if he, she, or they shall have absconded, or cannot be found, then to be summoned to appear before such commissioner or justice, by a notice or summons left at his, her, or their last or usual place of abode; and also to cause the witnesses on either side to be summoned; and such commissioner or justice shall examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party or parties, or by the oath of one or more credible witness or witnesses (which oath the said commissioner or justice respectively is hereby authorized to administer), give judgment or sentence accordingly; and in case the party or parties accused

shall be convicted of such offence, then it shall and may be lawful to and for such commissioner or justice of the peace respectively, to inflict a fine of 10*l.* upon him, her, or them, for such his, her, or their offence; which said fine so inflicted shall be divided and distributed, one moiety thereof to the informer or discoverer of the offence, and the other moiety thereof (the necessary charges for the recovery thereof being first deducted) to the treasurer of his majesty's navy or ordnance, as the case may be, to be by him applied in such manner as hereinbefore mentioned with respect to the produce of barges, boats, or other craft, seized and sold under the authority of this act, and to award and issue out his warrant under his hand and seal for levying such fine so adjudged on the goods of the offender or offenders, and to cause sale to be made thereof for payment of such fine and the reasonable charges of distress, (to be judged of by such commissioner or justice respectively,) in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and where sufficient goods of the party cannot be found to answer the said fine, to commit the said offender or offenders to the common gaol of the county, division, city, town corporate, liberty, or place, for the space of three calendar months, unless such fine shall be sooner paid, or, in lieu of such fine, to cause such offender or offenders to be imprisoned and kept to hard labour in the house of correction for the space of three calendar months, as to such commissioner or justice of the peace respectively shall be thought fit; and every such commissioner or justice shall cause the amount of every such last-mentioned moiety of fine which he shall so receive, and also the moiety of every sum arising from the sale of any barge, boat, or other craft sold under the authority of this act, and paid into his hands as aforesaid, to be paid into the hands of the said treasurer of the navy or ordnance, within thirty days after the expiration of the year in which such fines shall be received by him, or, in default thereof, such commissioner or justice respectively shall forfeit the sum of 50*l.*, to be recovered with double costs of suit, by any person or persons who shall sue for the same by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, or Court of Exchequer in Scotland, wherein no essoin, protection, or wager of law, nor more than one imparlance, shall be allowed; one moiety of which last-mentioned fine shall go to his majesty, his heirs and successors, and the other moiety thereof to him or them who shall sue for the same as aforesaid."

Stores, Naval and Military.

39 & 40 Geo. 3,
c. 89.

Sect. 19. "It shall and may be lawful to and for the said commissioner or justice before whom any person shall be convicted in a summary way as aforesaid (if he shall see cause), to mitigate and lessen any such before-mentioned fine of 10*l.*, to be inflicted in that behalf, as he shall think fit (the reasonable costs of the officers and informers, as well in making the discovery as in prosecuting the same, being always allowed over and above such mitigation), and so as such mitigation do not reduce the fine to less than one moiety of the said sum of 10*l.*, over and above the said costs and charges; any thing contained in this act to the contrary thereof in anywise notwithstanding."

Fines may be mitigated.

Sect. 20. "In case such commissioner or justice of the peace shall, upon the hearing and determining of such complaint as aforesaid, adjudge the offender or offenders, in lieu of the fine, to be imprisoned and kept to hard labour as aforesaid, that then the informer, or person or persons who shall have discovered such offender or offenders, shall have and receive, as a reward for such his, her, or their discovery, the sum of 5*l.* for every such offence so discovered, and the principal officers and commissioners of his majesty's navy, ordnance, or victualling, as the case may require, shall cause the said reward of 5*l.* to be paid by the treasurer of the navy or ordnance respectively for the time being, out of any public money in his hands, upon such informer or other person producing to them a certificate under the hand and seal of the commissioner or justice of the peace who shall have convicted such offender or offenders as aforesaid, certifying such conviction and the punishment which he hath inflicted upon the offender or offenders; and the name or names of the person or persons who, in his judgment, is entitled, and in what

If in lieu of a fine the offender be imprisoned, the informer to receive a reward of 5*l.*

*Stores, Naval
and Military.*

39 & 40 Geo. 3,
c. 89.

proportion or proportions, to such reward; which certificate the said commissioner or justice of the peace respectively is hereby required to give without fee or reward; and the money paid by any such treasurer on account of such last-mentioned rewards shall be allowed in his accounts, and he shall be discharged thereof accordingly; any law, custom, or usage to the contrary thereof in anywise notwithstanding: provided also that no such summary proceeding as before mentioned shall be had before any justice of the peace under the authority of this act, without the consent in writing of the principal officers or commissioners of his majesty's navy, ordnance, or victualling for the time being, or one of them, for that purpose first had and obtained; and that every adjudication or sentence to be had or given without such consent as aforesaid shall be null and void, to all intents and purposes whatsoever."

Appeal (a).

Sect. 21. "If any person or persons shall find himself, herself, or themselves aggrieved by the judgment of any such commissioner or justice, touching or concerning any such stores as last aforesaid, under the value of 20s., then he, she, or they shall or may, upon entering into a recognizance to his majesty, with one or more surety or sureties, to the satisfaction of such commissioner or justice, to the amount of treble the value of such fine, appeal to the justices of the peace at their next general quarter sessions of the peace for the county, division, city, town corporate, liberty, or place wherein the offence was committed, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment shall be affirmed, it shall and may be lawful for such justices of the peace to award the person or persons so appealing to pay such costs occasioned by such appeal as to them the said justices shall seem meet, and to enforce payment thereof, according to the course and practice of such court."

Conviction (b).

Sect. 22. "The commissioner or justice of the peace before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following, or in any other form of words to the like effect, *mutatis mutandis*; which conviction shall be good and effectual, to all intents and purposes, without stating the case, or the facts or evidence, in any more particular manner; (that is to say,)

"Be it remembered, that on the day of , in the year of our Lord , A. B., of , in the of , was convicted before me, C. D., one of the commissioners of his majesty's [or, one of his majesty's justices of the peace for the of , as the case may be], for that the said A. B., on the day of now last past, at the of , in the said of did [here state the offence against the act], contrary to the statute in such case made and provided.

Given under my hand and seal, the day of , in the year of our Lord ."

Certiorari (c).

Which conviction the said commissioner or justice shall cause to be written fairly upon parchment or paper, and returned to the next general quarter sessions of the peace for the county, division, city, town corporate, liberty, or place where such conviction was made, to be filed by the clerk of the peace, and there to remain and be kept among the records of the same county, division, city, town corporate, liberty, or place; and the same shall not be removed by *certiorari*, advocacy, or suspension, into any court whatsoever."

Witnesses not appearing.

Sect. 23. "If any person or persons shall be summoned as a witness or witnesses, to give evidence before such commissioner, or justice or justices of the peace, touching any of the matters relative to this act, either on the part of the prosecutor or the party or parties accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed by such commissioner or justice or justices of the peace before whom the seizure,

(a) See "*Appeal*," Vol. I.

(b) See "*Conviction*," Vol. I.

(c) See "*Certiorari*," Vol. I.

complaint, or prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of 10*l.*, to be recovered, levied, paid and applied, in such manner and by such means as is above directed with respect to fines on summary convictions."

Stores, Naval and Military.

39 & 40 Geo. 3,
c. 89.

Sect. 24. "Nothing hereinbefore contained which gives to any commissioner or justice of the peace power or authority to hear and determine offences in a summary way, shall extend, or be deemed, construed, or taken to extend, to prevent the party or parties accused of selling or delivering, or of having in his, her, or their custody, possession, or keeping, or of receiving or concealing any of the stores marked as above mentioned, under the value of 20*s.*, from being prosecuted as receivers of stolen goods under this act, or for unlawfully having the same in his, her, or their custody, or concealing the same, under the said recited acts of the ninth and tenth years of the reign of King William the Third, the ninth year of the reign of King George the First, or the seventeenth year of the reign of King George the Second, in any court of record, oyer and terminer, or otherwise, as they might have been if no such power or authority had been given; or to take away from any person or court whatsoever, any power, right, jurisdiction, pre-eminence, or authority, which he or they, or any of them, ought lawfully to have had and enjoyed for the hearing and determining of such offences, in case no such power or authority to hear and determine the same in a summary way had been given, so as that the same person shall not be punished twice for the same offence."

Not to prevent offenders being prosecuted as receivers of stolen goods.

Sect. 25. "The said commissioners of the navy, ordnance, or victualling for the time being, may sell and dispose of any of the stores aforesaid so marked as aforesaid, as they did or might have done before the making of this act: and that such person or persons as heretofore have or shall hereafter buy any such stores or other stores so marked as aforesaid, of the said respective commissioners, may keep and enjoy the same without incurring the penalty of this act, or any law to the contrary whatsoever, upon producing a certificate or certificates, under the hand and seal of three or more of the said commissioners, that they bought such goods or stores from them at any time before they sold or delivered the same, or before the same were found in their custody, or a certificate from such person or persons as shall appear to have bought the said stores from them the said commissioners, that the stores so sold or delivered by them, or so found in their custody, were the stores or part of the stores so bought of the said commissioners as aforesaid; in which certificate or certificates, the quantities of such stores shall be expressed, and the time when and where bought of the said commissioners, who, or any three or more of them for the time being, and also the person or persons afterwards selling the same, are hereby empowered and directed from time to time to give such certificate to such person or persons as shall desire the same, and have bought and shall hereafter buy any of the aforesaid stores, within thirty days after the sale and delivery thereof."

Sale by commissioners.

Sect. 26. "If any person or persons shall make, sign, or give any false certificate, bill of parcels, or other instrument, purporting the identity or the sale or disposal of any goods or stores as goods or stores so purchased of the said commissioners as aforesaid, or if any person or persons shall utter or publish any such false certificate, bill of parcels, or other instrument purporting as aforesaid, knowing the same to be false, every such offender, upon conviction thereof in due form of law, shall forfeit the sum of 200*l.*, and be further corporally punished, as by this act is directed with respect to persons having in their possession or concealing his majesty's warlike, naval, or ordnance stores, contrary to the said act of the ninth and tenth years of King William the Third; one moiety of which penalty shall be to his majesty, his heirs and successors, and the other moiety thereof, with full costs of suit, to the informer, to be recovered in such manner as the penalty of 200*l.*, inflicted by the said last-mentioned act, is by that act or any law now in force made recoverable."

Penalty for giving false certificates.

Sect. 28. "Every commissioner of the navy, ordnance, or victualling, acting in the execution of this act, shall have and be entitled to the benefit

Magistrates, &c., to have the pro-

Stores, Naval and Military.

39 & 40 Geo. 3,
c. 89.

tection afforded by
the 24 Geo. 2,
c. 44 (a).

Persons giving
false evidence.

Dealers in ma-
rine stores shall
have their names
painted on their
storehouses (b).
Penalty, 20*l*.

Such dealers shall
not cut up cables
without a permit
from a magistrate,
to be granted on
affidavit, &c.

and protection given to the justices of the peace in and by an act of parliament made in the seventh year of the reign of the late King James the First, intituled, 'An Act for Ease in pleading troublesome and contentious Suits prosecuted against Justices of the Peace, Mayors, Constables, and certain other his Majesty's Officers, for the lawful Execution of their Office;' and also in and by one other act of parliament, made in the twenty-first year of the reign of the said late King James, intituled, 'An Act to enlarge and make perpetual the Act made for Ease in pleading against troublesome and contentious Suits prosecuted against Justices of the Peace, Mayors, Constables, and certain other his Majesty's Officers, for the lawful Execution of their Office, made in the seventh Year of his Majesty's most happy Reign;' and also in and by one other act of parliament, made in the twenty-fourth year of the reign of his late Majesty King George the Second, intituled, 'An Act for rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others, acting in Obedience to their Warrants,' in as full and ample manner and form as if such commissioner had been a justice of the peace within the true intent and meaning of the said acts of parliament, or any of them; and that all and every constable, headborough, or other peace-officer, or person acting under the warrant or authority of such commissioner in pursuance of this act, shall, besides the protection given to persons making seizures as above mentioned, have and be entitled to the full benefit and protection of the said several last-mentioned acts of parliament, in the same manner to all intents and purposes as if he or they had acted under the warrant or authority of a justice of the peace within the meaning of the same acts."

Sect. 36. "If any person, upon examination upon oath or affirmation before any commissioner of the navy, ordnance, or victualling respectively, or before any justice of the peace in Great Britain, in any matter relating to the execution of this act, shall wilfully and corruptly give false evidence, or shall, in any information or deposition sworn, or affirmation taken in writing before any such commissioner or justice, wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof lawfully convicted, shall be and is hereby declared to be subject and liable to the like pains and penalties as any persons convicted of wilful and corrupt perjury are by any law now in force subjected and liable to."

By the 49 Geo. III. c. 122, s. 17, "all persons who shall trade or deal in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any kind or description, shall have their names with the words 'dealer in marine stores,' painted distinctly in letters of not less than six inches in length upon the front of all their storehouses, warehouses, and other deposits for such goods; and in default of their so doing, they shall, on conviction before any justice or justices of the peace, or magistrate or magistrates of any jurisdiction where such storehouse, warehouse, and depot shall be, upon the oath of one credible witness, or on confession of the party offending, forfeit and pay a sum not exceeding 20*l*., nor less than 10*l*., one half of which penalty shall be paid to the informer, and the other half to the poor of the parish or township where such offence shall be committed; and that it shall not be lawful for such dealers or traders to cut up any cable, or any part of a cable, exceeding five fathoms in length; or uncant, untwine, or unlay the same into junk or paper-stuff, on any pretence whatsoever, without first obtaining a permit from some justice of the peace or magistrate residing near to the residence of such dealer, which permit shall not be granted unless an affidavit shall have been made that the cable so intended to be cut up had been *bonâ fide* purchased, and without fraud, by the party so intending to cut up the same, and without any knowledge or suspicion on his or her part that the same had been

(a) See this enactment, *ante*, "Justices," Vol. III. p. 58. *post*; 1 & 2 Geo. IV. c. 75, s. 16, *post*; "Wreck," Vol. VI.

(b) See, also, the 59 Geo. III. c. 159,

or were dishonestly come by; and in which affidavit shall also be specified the particular quality and description of such cable, and the name or names of the seller or sellers thereof, which affidavit shall be recited and set forth at length in the permit thereupon granted, on pain of forfeiting for the first offence any sum not exceeding 20*l.* nor less than 10*l.*, and for every second or further offence any sum not exceeding 50*l.* nor less than 20*l.*, to be recovered before any justice of the peace, and one half thereof to go to the informer, and the other half to the poor of the parish in which such offence shall have been committed."

Sect. 18. "For the more effectual prevention of such frauds, all dealers in such marine stores as aforesaid shall keep a book or books fairly written, in which entries shall be from time to time regularly made of all such old marine stores as shall be by them from time to time bought, containing a true account and description of the times when the same were so respectively bought by them, and of the names and places of abode of the respective sellers thereof: and before any person who shall obtain such permit for the cutting up of any such cable (as hereinbefore required to be obtained) shall proceed to cut up the same by virtue thereof, there shall be published by the space of one week at least before the cutting up the same, one or more advertisement or advertisements in some public newspaper, printed nearest to the storehouse, warehouse, or depot where the articles shall be deposited, notifying that such party had obtained such permit for the purpose of cutting up such cable, and of such kind and quality as therein described, and also specifying the place where such articles shall be deposited; whereupon it shall be lawful for all and every person or persons who may have just cause to suspect that such articles are the property of such person or persons, and shall have verified upon oath the fact of such his, her, or their suspicion before any justice of the peace or magistrate residing near to the said storehouse, warehouse, or depot, by warrant for that purpose thereupon granted, to require of and from such dealer who shall have so advertised, and shall be sworn to be suspected as aforesaid, the production and examination of the book or books of entries hereby required by him or her to be kept, and inspect and examine the cables described in such permit; and in case any such dealer, when so thereunto required as aforesaid, shall neglect or refuse to produce to the person named in such warrant as the person on whose oath the same shall have been obtained, the book or books containing the entries of such dealer so required to be made therein as aforesaid, or shall neglect to keep any such book or books in which entries containing accounts of the several particulars hereinbefore required to be entered shall be made, or to permit such inspection or examination as aforesaid, or shall, after obtaining such permit for the cutting up of any such cable, and before the cutting up of the same, neglect to publish such one or more advertisement or advertisements relative thereto as is hereinbefore directed and required, the dealer or dealers so offending in all or any of the particulars hereinbefore mentioned shall forfeit and pay for every such offence, being his, her, or their first offence, any sum not exceeding 20*l.* nor less than 10*l.*, and for every second or third offence any sum not exceeding 50*l.* nor less than 20*l.*, one half of which penalty shall, on conviction before any justice of the peace or magistrate residing near as aforesaid, be paid to the informer, and the other half to the poor of the parish or township in which such offences shall be committed; and in case any of the penalties by this act imposed shall not be paid, with the charges incident to the conviction, immediately upon such conviction, the same shall and may be levied by warrant under the hand and seal of such justice of the peace or magistrate, upon the goods and chattels of any such offender or offenders; and in case no sufficient distress shall be found, then every such offender or offenders shall and may be committed by any such justice of the peace or magistrate as aforesaid, to gaol, in case of any first offence, for the space of six calendar months, and in case of any second or further offence, for the space of twelve calendar months, unless the said penalty and the charges shall be sooner paid."

The 21st section of this act relates to the power of appeal; see the enactment, *ante*, "Cordage," Vol. I.

Stores, Naval and Military.

49 Geo. 3, c. 122.

Dealers shall keep an account of old stores bought by them.

Shall advertise before cutting up of cordage.

Inspection of such accounts may be demanded by parties interested.

Penalties on dealers for neglect.

Stores, Naval and Military.

54 Geo. 3, c. 60.

Provisions of the 9 & 10 Wil. 3, c. 41, and 29 & 40 Geo. 3, c. 89, extended to cordage worked with worsted threads.

By the 54 Geo. III. c. 60, after reciting that "the marks usually put to his majesty's cordage are frequently taken out of the same for the purpose of concealing his majesty's property therein; and it is expedient that other marks should be used in his majesty's cordage for the purpose of denoting his majesty's property therein;" it is enacted, "that from and after the passing of this act, all and every the pains, penalties, forfeitures, regulations, restrictions, powers, provisions, matters and things, in respect to the making, selling, delivering, receiving, having in possession, and concealing any cordage wrought either with a white thread laid the contrary way, or with a twine laid to the contrary way, mentioned and contained in 9 & 10 Wil. III. c. 41, and also in 39 & 40 Geo. III. c. 89; or in any other act or acts of parliament; and shall extend to the making, selling, delivering, receiving, having in possession, and concealing any cordage wrought with one or more worsted threads, as fully and effectually, to all intents and purposes, as if the same several pains, penalties, forfeitures, regulations, restrictions, powers, provisions, matters, and things were herein and hereby repeated and re-enacted in respect to such last-mentioned cordage: provided always, that nothing herein contained shall extend, or be construed to extend, to repeal any of the statutes now in force, or any of the clauses, matters, and things, therein contained, in respect to cordage wrought either with a white thread laid the contrary way, or with a twine laid to the contrary way, but that the same marks may be continued to be used to denote his majesty's property in such cordage, in the same manner as if this act had not been passed."

54 Geo. 3, c. 159.
Persons prohibited from sweeping harbours for lost stores.

By the 54 Geo. III. c. 159, s. 10, all persons, except such as are duly licensed thereto by a commissioner of his majesty's navy, are prohibited from creeping or sweeping for anchors, cables, ropes, rope-yarns, or other stores, lost, or supposed to be lost, in harbours, &c., within certain prescribed limits, under a penalty of 10*l*.

55 Geo. 3, c. 127.

Recited acts of 9 & 10 Wil. 3, c. 41; 9 Geo. 1, c. 8; 17 Geo. 2, c. 40; 40 Geo. 3, c. 89; so far as relates to naval stores, shall extend to all public stores, and to all persons intermeddling therewith, not authorized.

The 55 Geo. III. c. 127, recites the 9 & 10 Wil. III. c. 41; 9 Geo. I. c. 8; 17 Geo. II. c. 40; 40 Geo. III. c. 89; 52 Geo. III. c. 12; 53 Geo. III. c. 126, and repeals the last-mentioned act, and enacts, "that from and after the passing of this act, not only the said recited act of the ninth and tenth year of the reign of King William the Third, but also the said several other acts of the ninth year of the reign of King George the First, the seventeenth year of the reign of King George the Second, and the fortieth year of the reign of his present majesty, hereinbefore recited, so far as the same severally relate to his majesty's naval, ordnance, and victualling stores, therein respectively mentioned, and all the pains, penalties, forfeitures, regulations, restrictions, powers, provisions, clauses, matters, and things therein respectively contained, relating to his majesty's naval, ordnance, and victualling stores, therein respectively mentioned, shall extend, and be construed to extend, to all public stores whatsoever, under the care, superintendence, or control, of any officer or person in the service of his majesty, his heirs or successors, or employed in any public department or office, either marked with the marks, or any of them, in the said recited acts, or any of them, specified, or with the broad arrow and the letters B. O., or with a crown and the broad arrow, or with his majesty's arms, or with the letters G. R., to denote the property of his majesty, his heirs or successors, therein, and to all and every person and persons not authorized by the proper officer or officers, person or persons, in his majesty's service, in that behalf so to do, using any such marks, or making any goods marked with such marks, or any of them, and to all and every person and persons, in whose custody, possession, or keeping, any such public stores, so marked as aforesaid, shall be found, or who shall willingly or knowingly receive or have in his, her, or their custody, possession, or keeping, or who shall conceal any such public stores so marked as aforesaid, unless such person or persons shall, upon his, her, or their trial, produce a certificate or certificates, under the hand or hands of the proper officer or officers, person or persons in his majesty's service, authorized to grant the same, of such and the like nature as the certificate, in the said recited acts of the ninth and tenth year of the reign of King William the Third, and fortieth year of the reign

of his present majesty, mentioned, and to all and every person and persons who shall wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate, or erase, wholly or in part, any of the said marks, or cause, procure, employ, or direct any other person or persons so to do, for the purpose of concealing the property of his majesty, his heirs or successors therein, as fully and effectually, to all intents and purposes, as if all the same several pains, penalties, forfeitures, regulations, restrictions, powers, provisions, clauses, matters, and things in the said several acts contained, so far as the same severally relate to his majesty's naval, ordnance, and victualling stores; and the punishment of persons, offending in manner therein mentioned, were herein and hereby severally repeated and re-enacted in respect to all other public stores whatsoever."

Stores, Naval and Military.

55 Geo. 3, c. 127.

By the 56 Geo. III. c. 80, "from and after the passing of this act, it shall and may be lawful to and for all and every, or any one of the principal officers and commissioners of his majesty's navy, resident on any foreign station, to grant certificates under his or their respective hand or hands, for any such stores or goods which shall hereafter be sold by, or by the order of any such principal officer or commissioner, at any such foreign station, of such and the same, or the like tenor and effect, and that the same certificates so to be granted as aforesaid shall be in all places of such and the same force and effect as certificates under the hands of three or more of the principal officers and commissioners of the navy in England are of, for any such stores or goods sold by or by the order of the said commissioners in England."

56 Geo. 3, c. 80. Principal officers and commissioners of the navy at foreign stations may grant certificates of stores sold by them.

By the 4 Geo. IV. c. 53, it is enacted, "that from and after the passing of this act, every person who shall be lawfully convicted of stealing or embezzling his majesty's ammunition, sails, cordage, or naval or military stores, or of procuring, counselling, aiding, or abetting any such offender, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding seven years." The 7 & 8 Geo. IV. c. 27, s. 1, repeals the 31 Eliz. c. 4, and 22 Car. II. c. 5. It also repeals the 4 Geo. IV. c. 53, "except so far as relates to any person convicted of stealing or embezzling his majesty's ammunition or ordnance, naval and military stores, or of being accessory to any such offence." See the 1 Geo. I. st. 2, c. 25, s. 3, *ante*, p. 879, as to summary punishment.

4 Geo. 4, c. 53. Stealing or embezzling king's stores, transportation or imprisonment.

By the annual Mutiny Act, certain persons in the army, guilty of any of the offences aforesaid, may be tried and punished by a court-martial. See "*Military Law*," Vol. III.

Mutiny act.

Habiliments.]—Habiliments extend to harness, and all utensils that belong to war. (3 *Inst.* 79.)

Decisions on statutes.

Embezzle, &c., to the Value of 20s.]—Though the statute 31 Eliz. c. 4, only spoke of embezzling or stealing stores to the value of 20s., still any of the officers who had a bare charge of the stores in the king's warehouses, or a mere authority to deliver them out, may be guilty of felony at common law in stealing them, to any amount, from such places of deposit. Accordingly, in *Thorne's case*, 2 *East's P. C.* 622, where it appeared that the prisoner was foreman of one of the storehouses in Plymouth Dock, containing naval stores, and had given security in 200*l.* for the faithful discharge of his duty, and was intrusted with the receiving and delivering out again of the stores in the absence of the clerk whose proper duty it was, when present; and that certain kersey was cut off by him from a bale in the stores, and delivered by him to an accomplice to be taken out of the yard, though the value were under 20s., he was, by the direction of the court, convicted of larceny at common law in stealing the kersey.

Embezzlement, what.

Receive or have in his possession]—Under the statutes for protecting the king's stores, the king's mark denotes the original ownership; and there the *onus probandi* lies on the party to account satisfactorily for his possession, according to the regulations prescribed; otherwise the bare fact of possession

What a receiving or having in possession.

*Stores, Naval
and Military.*

concludes him. But even here the presumption of the *malus animus* arising from the bare fact of possession may be rebutted by circumstances, as in the following case:—A widow woman was indicted before Mr. *Justice Foster*, upon the western circuit, on the 9 & 10 Wil. III. c. 41, for having in her custody divers pieces of canvass, marked with the king's mark, in the manner described in the act, she not being a person employed by the commissioners of the navy to make the same for the king's use. The canvass was marked as charged in the indictment, and was clearly proved to be such as was made for the use of the navy, and to have been found in the defendant's custody. The defendant did not attempt to show that she was within any exception of the act, as being a person employed to make canvass for the use of the navy; nor did she offer to produce any certificate from any officer of the crown, touching the occasion and reason of such canvass coming into her possession. Her defence was, that when there happened to be in his majesty's stores a considerable quantity of old sails, no longer fit for that use, it had been customary for the persons intrusted with the stores to make a public sale of them in lots, larger or smaller, as best suited the purpose of the buyers; and that the canvass produced in evidence, which happened to have been made up long since, some for table-linen and some for sheeting, had been in common use in the defendant's family a considerable time before her husband's death; and, upon his death, came to the defendant, and had been used in the same public manner by her to the time of the prosecution. This was proved by some of the family, and by the woman who had frequently washed the linen. This sort of evidence was strongly opposed by the counsel for the crown, who insisted that, as the act allows of but one excuse, the defendant, unless she could avail herself of that, could not resort to any other; that, if the canvass were really bought of the commissioners, or of persons acting under them, there ought to have been a certificate taken at the time of the purchase, and the second section admits of no other excuse. But the judge was of opinion, that though the clause of the statute, which directs the sale of these things, had not pointed out any other way for indemnifying the buyer than the certificate, and though the second section seemed to exclude any other excuse for those in whose custody they should be found, yet still the circumstances attending every case which might seem to fall within the act ought to be taken into consideration; otherwise, a law calculated for wise purposes might, by too rigid a construction of it, be made a handle for oppression. There was no room to say that this canvass came into the possession of the defendant by any act of her own: it was brought into family use in the lifetime of her husband, and it continued so to the time of his death; and by act of law it came to her. Things of that kind had been frequently exposed to public sale; and, though the act pointed out an expedient for the indemnity of the buyers, yet, probably, few buyers, especially where small quantities had been purchased at one sale, had used the caution suggested to them by the act. And if the defendant's husband really bought the linen at a public sale, but neglected to take a certificate, or did not preserve it, it would be contrary to natural justice, after such a length of time, to punish her for his neglect. He therefore thought the evidence given by the defendant proper to be left to the jury; and directed them, that if, upon the whole evidence, they were of opinion that the defendant came to the possession of the linen without any fraud or misbehaviour on her part, they should acquit her; and she was accordingly acquitted. (*Fost. App.* 439, edit. of 1792; 2 *East's P. C.* 765.)

Difference between receiving and having in possession.

An indictment, Winchester, March, 1801, *cor. Le Blanc, J.*, 2 *East's P. C.* 767, charged that *Thomas Cole*, on the 28th January, 1801, unlawfully, willingly, and knowingly did *receive and have* in his custody, possession, and keeping, certain naval stores of the king, being all marked with the broad arrow, he not being a contractor, &c., against the statute, &c. The jury found the prisoner guilty; but said they did not find that he *received* the stores after the 28th July, 1800, but only that he had them in his possession after that day. Judgment was thereupon respited to take the opinion of the

judges, a majority of whom inclined to think that the statute was to be construed in the disjunctive, and the word *or* (receive *or* have) not to be taken as *and*; but, because of the disagreement of some, and that the case was not likely to occur again, the prisoner, on the finding of the jury, was recommended to mercy. It seemed, however, to be agreed, that the case was not within the 9 & 10 Wil. III. c. 41, because the goods were not charged to have been found in the prisoner's possession.

A defendant against whom the possession of stores is proved may discharge himself by other evidence than that of a navy-board certificate; as will appear from the case of *R. v. Banks*, 1 *Esp.* 144, wherein Lord *Kenyon*, C. J., said, that though in prosecutions under the statutes 9 & 10 Wil. III. c. 41, and 17 Geo. II. c. 40, s. 10, it was sufficient for the crown to prove the finding of the stores with the king's mark in the defendant's possession, to call upon him to account for that possession and the manner of his coming by them, so as to throw the *onus* upon the defendant, of proving that he had legally become possessed of them; yet, that the defendant had other means of showing that he had lawfully become possessed of them than by the production of the certificate from the navy board; as, for example, he might show that he had bought them from another person who was in the practice of buying stores at the navy sale; and who, therefore, might fairly be presumed to have had the regular certificate, but who, when he sold part to the defendant, could not, consistently with his own safety, part with the certificate he had obtained, of his having been the purchaser of the whole lot.

See cases as to the punishment, *ante*, p. 880.

Punishment.

See a form of indictment for illegally having possession of the king's stores, *Jerv. Arch., C. L.* 465, 6th ed.

Form of indictment for having in possession king's stores, &c.

Stray. See "**Estray**," Vol. II.

Subornation. See "**Perjury**," *ante*.

Subpoena. See "**Evidence**," Vol. II. p. 99.

Summons.

IN all legal proceedings, the person complained of ought to have notice of the charge laid against him, and to have an opportunity of being heard in his own defence, and there is no case of a judicial proceeding by which a man is to be deprived of any part of his property, without his having an opportunity of being heard. (See per *Bayley*, *Capel v. Child*, 2 *C. & J.* 579; *R. v. Benn*, 6 *T. R.* 198; *R. v. Justices of Stafford*, 5 *Nev. & M.* 94; 1 *H. & W.* 328; *Painter v. Liverpool Gas Company*, 6 *Nev. & M.*; 3 *Adol. & Ell.* 433.) Consequently, where a person is accused before the justices, they ought to summon the party to appear, or issue their warrant to bring him before them. The manner of conveying the parties is sometimes directed by the acts of parliament creating the respective offences, which, therefore, ought to be pursued accordingly. In other cases, where it is left discretionary in the justices, it seemeth most agreeable to the mildness of our laws to put the

Summons, when proper.

Surety of the Peace.

Warrant, when proper.

party to no more inconvenience than needs must; and therefore, where the case will bear it, a summons seems more apposite than a compulsory process.

But, in cases of sureties of the peace, petty larcenies, and other felonies, and generally where the king is a party, and also in cases between party and party, where the body of the offender is liable, a warrant is the regular process, and not a summons.

In some cases, a party may be apprehended without either a summons or warrant. See "*Arrest*," Vol. I.

See further, as to the necessity of a summons, and when it is dispensed with, "*Conviction*," Vol. I. p. 874, 887.

Form and service of.

The *form* of the summons, as also the mode of *serving* it, and the consequences of defects, will be found noticed under title "*Conviction*," Vol. I.

By one justice where two empowered to determine the case.

By the 3 Geo. IV. c. 23, s. 2, one justice, &c., may receive the original information, &c., where two or more justices are empowered to hear and determine.

Forms of.

See forms of "*Conviction*," Vol. I. p. 903.

Sunday. See "*Lord's Day*," Vol. III.

Supremacy, Oath of. See "*Oaths*," Vol. III.

Surety of the Peace.

Surety of the peace.

OUT of the Latin word *pax*, the Normans formed their *paix*, and we (out of that) our *peace*. (*Lamb.* 5.)

Surety of the Peace is the acknowledging of a recognizance or bond to the king, taken by a competent judge of record, for keeping the peace. (*Dalt.* c. 116.)

Who may take it.

And this surety of the peace every justice of the peace may take and command by a twofold authority: 1. As a minister, commanded thereto by a higher authority; as, when a writ of *supplicavit* directed out of the Chancery or King's Bench is delivered to him. 2. As a judge, and by virtue of his office, derived from his commission. (*Dalt.* c. 116.) And, by the first clause of the commission, justices in session may take surety for the peace.

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[21 Jac. I. c. 8.]

V. *How the Peace-Warrant may be superseded*, p. 901.

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[3 Hen. VII. c. 1.]

X. *How the Recognizance, being forfeited, shall be proceeded on*, p. 905.

XI. *How such Recognizance may be discharged*, p. 905.

I. For what Cause granted.

By the commission of the peace, justices of peace have power to cause to come before them, or any one of them, all these who, to any of the king's people, concerning their bodies, or the firing of their houses, have used threats, to find sufficient security for the peace, or their good behaviour towards the king and his people; and, if they shall refuse to find such security, to cause them in the king's prisons to be safely kept, until they shall find such security. See the form of the commission, Vol. III. p. 449.

For what cause to be granted.

Upon which Mr. *Hawkins* observes, that it seemeth clear that, wherever a person has just cause to fear that another will burn his house, or do him a corporal hurt,—as, by killing or beating him, or that he will procure others to do him such mischief, he may demand the surety of the peace against such person; and that every justice of the peace is bound to grant it, upon the party's giving him satisfaction upon oath that he is actually under such fear, and that he has just cause to be so, by reason of the other's having threatened to beat him, or laid in wait for that purpose; and that he doth not require it out of malice or for vexation. (1 *Haw. c.* 60, s. 6; see *Butt v. Conant*, 1 *B. & B.* 548; 4 *Moore*, 195, *the case a libel.*)

Fear of corporal hurt, or burning his house.

Also, it seems the better opinion, that he who is threatened to be imprisoned by another has a right to demand the surety of the peace: for every unlawful imprisonment is an assault and wrong to the person of a man. And the objection that one wrongfully imprisoned may recover damages in an action, and therefore needs not the surety of the peace, is as strong in the case of battery as imprisonment; and yet there is no doubt but that one threatened to be beaten may demand the surety of the peace. (1 *Haw. c.* 60, s. 7.)

Being threatened with imprisonment.

But, if the justice shall perceive that surety is demanded merely of *malice*, or for *vexation* only, without any just cause or fear, it seemeth he may safely deny it. (*Dalt. c.* 116.)

Where demanded through malice or vexation.

Implied malice is no ground for granting the sureties: *direct* malice must be shown from particular facts.

Also, if a man will require the peace, because he is at *variance* or in *suit* with his neighbour, it shall not be granted. (*Dalt. c.* 116.)

Also, Mr. *Lambard* says, he takes it to be somewhat clear that a justice may not by the commission award a precept of the peace in behalf of a man that will require it, because he feared that he will do harm to his *servants* or *cattle*. (*Lamb.* 83.)

Fear of harm to his servants or cattle.

And Mr. *Dalton* says, where a man is in fear that another will hurt his servants, or his cattle, or other goods, this surety of the peace shall not be granted by the justice. But, in this case, *Fitzherbert* saith, the party may have a special writ out of the Chancery directed to the sheriff, that he shall cause such person to find surety that he shall do no hurt or damage to the other man in his body, or to his servants or goods; and, if he will not find surety, that then he shall arrest and detain him in prison until he shall find surety. (*Dalt. c.* 116.)

The reason why a man may not have sureties of the peace against another, for that he feareth he will do harm to his servants, seemeth to be, because it should be the servant's fear in such case, and not the master's; and the servant's own oath before the justice is necessary. And as to his goods, it seemeth clear that no sureties of the peace ought to be granted in that case: for the recognizance of the peace, when taken, is only that the party shall keep the peace towards the king and all his liege people.

But Mr. *Dalton* says, that if a man shall threaten to hurt his wife or child, he thinks he may crave the peace at the justice's hands, by the words of the commission, and that the justice ought to grant it. (*Dalt. c.* 116.)

Threatening a man's wife or child.

Note, also, the surety of the peace shall not be granted but where there is a fear of some present or future danger, and not merely for a battery or trespass that is past, or for any breach of the peace that is past; for this

Must be a fear of present or future danger.

3. *Against whom granted.*

K. B. will not interfere with decision of magistrate.

surety of the peace is only for the security of such as are in fear; but the party wronged may punish the offender by indictment, and the justice, if he see cause, may bind over the affrayer. (*Dalt. c. 11.*) That is, he may bind him over to answer unto the indictment.

If the justice, in his discretion, think that there is a ground for requiring the defendant to enter into recognizances to keep the peace, the Court of King's Bench will not interfere with his decision. Therefore, where a party gave information on oath before a magistrate, that from certain language used towards him he was in bodily fear from another, and the magistrate, upon hearing the complaint, required the latter to enter into recognizances to keep the peace. On motion to discharge the recognizances, on the ground that the language was used in a metaphorical sense only, the court refused to interfere, because it was for the magistrate to judge in what sense the language was used. (*Rex v. Tregarthen, 2 Nev. & M. 379; 5 B. & Ad. 678.*)

II. *At whose Request granted.*

May be demanded by any person.

As to this, Mr. *Hawkins* says, it seems to be agreed at this day, that all persons whatsoever, under the king's protection, being of *sane* memory, whether they be natural and good subjects or aliens, or attainted of treason, &c., have a right to demand surety of the peace. And it is certain a wife may demand it against her husband threatening to beat her outrageously, and that a husband also may have it against his wife. (1 *Haw. c. 60, s. 2; Cromp. 118.*)

Upon which Mr. *Crompton* observeth, that if the wife, in such case, cannot find sureties, she shall be committed; "and so (says he), a man may be rid of a shrew." (*Crompt. 118. (a)*)

And Mr. *Dalton* says, an infant under the age of fourteen years may demand this surety, and it shall be granted to him. (*Dalt. c. 117.*)

But, as to a person of *none-sane* memory, Mr. *Dalton* says, this surety shall neither be granted against him nor to him, upon his own request; but yet, if there shall be cause, the justice ought to provide for his safety. (*Dalt. c. 117.*)

A peeress may demand surety of the peace against her husband. (See the cases of *Lord Vane, 2 Stra. 1202; 13 East, 171, n. S. C.; Marquis Carmarthen, Fort. 359; Earl Ferrers, 1 Burr. 631, 703; Earl Stamford, Cas. T. Hardw. 74; Lord Strathmore, 1 T. R. 696; Lord Howard, 11 Mod. 109.*)

III. *Against whom granted.*

Against whom.

Infants and *femes coverts*.

Peers.

There seems to be no doubt but that it ought, upon a just cause of complaint, to be granted by any justice of the peace against any person whomsoever, under the degree of nobility, being of sane memory, whether he be a magistrate or private person, and whether he be of full age or under age. But infants and *femes coverts* ought to find security by their friends, and not to be bound themselves. And the *safest* way of proceeding against a peer is by complaint to the Court of Chancery or King's Bench. (1 *Haw. c. 60, s. 3; 4 Bla. Com. 253.* See, *ante*, "*Peers.*")

(a) If the marriage be disputed, the court will order the recognizance to be worded so as not to admit the fact. And it was directed to be as follows: "To keep the peace towards our sovereign lord the king, and all his liege people, and particularly towards Hannah Penn, who hath exhibited articles of the peace against him, the said James Bambridge, by the name of Hannah Bambridge, wife of him the said James, and that he shall not depart the court without leave," &c. (*R. v. Bambridge, 2 Str. 1231.*)

IV. By whom and how granted.

The Courts of Chancery or King's Bench, or any justice or other conservator of the peace, may, it should seem, compel surety of the peace. Who may compel it.

If a person require immediate surety of the peace, and there be no sessions sitting, he should go before a justice or justices out of session, and make complaint on oath of the facts which require the surety. The complaint is usually in writing. See form, (No. 1,) *post*, p. 915. Before a single justice.

If the offending party be present, he may be required at once to enter into the requisite recognizance.

If he be absent, the justice may make out a warrant to bring the party before himself or some other justice, or he may make it to bring the party before himself only: for he that maketh the warrant, for the most part, hath the best knowledge of the matter, and therefore he is the fittest to do justice in the case. (5 *Rep.* 59. See form of warrant, *post*, (No. 2,) p. 915.)

It seemeth certain, that if the person to be bound be in the presence of the justice, he may be immediately committed, unless he offer sureties; and from hence it follows, *à fortiori*, that he may be commanded by word of mouth to find sureties, and committed for his disobedience. But it is said, that, if he be absent, he cannot be committed without a warrant from some justice, in order to find sureties, and that such warrant ought to be under seal, and to show the cause for which it is granted, and at whose suit, and that it may be directed to any indifferent person. (1 *Haw. c.* 60, s. 9. See form of commitment, *post*, (Nos. 4, 5.)).

It is said, a justice cannot enjoin another to keep the peace under a penalty. (*Com. Dig.*) Nor commit him for not finding security, until the party has been required and refused so to do. (*Per Pratt, C. J., R. v. Wilks*, 1 *Haw. c.* 60, s. 9, 7th edit. note.)

It is more usual, and is considered as the better way, except under very special circumstances, for the justice to bind the party against whom the peace is required by recognizance to appear at the next session of the peace, and, in the mean time, to keep the peace to the king and all his liege people, especially to the party claiming the security; and, though the recognizance should be removed by *certiorari*, it is no discharge of the obligation to appear. (2 *Haw. c.* 27.) The recognizance, however, may be to keep the peace for any indefinite period. (*Willes v. Bridger*, 2 *B & Ald.* 278. See further, as to the form of the recognizance, *post*, p. 903.)

The party requiring the surety may at once apply to the court of sessions; and this is the most usual and best course, when the court is sitting. Before the sessions.

The application should be made to the court upon articles on oath (or on the affirmation of a Quaker), stating fully all the facts which justify the applicant in his fearful apprehensions. See form, *post*, p. 915, (No. 1).

The articles should be exhibited on parchment.

If the applicant has already been before a justice out of sessions, and the defendant has been bound by recognizance to appear before the justices in session, the court may make proclamation, that "if any man can show cause why the peace granted against *such a one* shall be continued, he shall speak;" and if no person come to demand the peace against him, or to show cause why it should be continued, then the court may discharge him. (*Dalt.* 120.)

It is said, that if a man be bound to keep the peace, and especially if to keep it towards a certain person, though such person come not to desire the peace may be continued, yet the court, by their direction, may bind him over till the next session, and that may be to keep the peace against that person only, if they shall think fit: for it may be that the person who first craved the peace is sick, or otherwise prevented, so as he cannot come to that session to demand the continuance of the peace further. (*Talf. Dick. Sess.* 404.) The power of the sessions, however, to do this seems questionable. In *R. v. Bowes*, where Lady *Strathmore* had exhibited articles of the

4. *By whom
and how
granted.*

peace against the defendant (her husband), the Court of King's Bench ordered him to give security for fourteen years (it being a case of great outrage, and articles of the peace having been once before exhibited against him on a different complaint), himself in 10,000*l.* and two sureties in 5,000*l.* each. The defendant afterwards applied to the court to reduce the time to one year instead of fourteen, and also to diminish the sum; and in the course of the argument in support of the rule, the defendant's counsel suggested that the court might take bail for one year at first, and afterwards renew that from year to year, if they should see occasion, without any fresh facts being exhibited against him. But though the court, on the particular circumstances of the case, ordered the time to be reduced to two years, because an information then depending for the outrage complained of would be disposed of within that time, when the court might deal with the defendant as they thought proper, in the event of his being convicted, Mr. J. Ashhurst, in answer to the suggestion at the bar, that new bail might be required of the defendant at the end of the first year on the original complaint, said, "I very much doubt whether we have such a power. It has been admitted that there never was any instance of the kind; and I confess I should be very loath to establish such a precedent." (*R. v. Bowes*, 1 *T. R.* 700.)

If the applicant appear, he may then move the court to receive articles of the peace against the offender (with which articles ready drawn on parchment, (see Form, *post* 918, No. 10,) he should come prepared, in order that they may be delivered to the clerk of the peace), and further, to bind him by recognizance to the next session; and so on from session to session, so long as he shall be able to make it appear that his reasonable apprehensions continue. Or the justices may bind him for a certain definite period, without reference to any succeeding session, at their discretion, as the individual justice might have done in the first instance. (*Ante*, 899; *Talf. Dick. Sess.* 405.)

If the party refuse to enter into the recognizance, he may be committed. (*Ante*, p. 899.)

Process out of the
Chancery or K.B.

As to granting process of the peace or good behaviour out of the Chancery or the King's Bench, it is enacted by the 21 Jac. I. c. 8, that it shall not be granted but upon motion in open court, and declaration in writing, and upon oath to be exhibited by the party desiring such process, of the causes for which such process shall be granted; the motion and declaration to be mentioned on the back of the writ. And if it shall afterwards appear that the causes are untrue, the court may order *costs* to the party grieved, and commit the offender till paid.

Verification on
oath.

The articles must be verified by the *oath* of the exhibitant. (*R. v. Green*, 1 *Str.* 527; *Hilton v. Byron*, 12 *Mod.* 243.) Since the 9 Geo. IV. c. 32, and 3 & 4 Wil. IV. c. 49, the solemn affirmation or declaration of a Quaker or Moravian would, it seems, suffice. And since the 3 & 4 Wil. IV. c. 82, it would seem, that the solemn affirmation or declaration of a Separatist would suffice. See "*Oaths*," Vol. III.

Affidavits in cor-
roboration.

The articles may be supported by the corroboratory affidavits of third persons, and it is desirable so to support them. The affidavits ought not, it seems, to be entitled with names, &c., there being no previous cause in court. (*R. v. Jones*, 1 *Str.* 704; *Bevan v. Bevan*, 3 *T. R.* 601; *King v. Cole*, 6 *T. R.* 642.) But affidavits in answer must. (*Id.*)

Affidavits in con-
tradiction.

A person demanding sureties of the peace (whether it be in the first instance before a single justice for immediate security, or by exhibiting articles before the justices in session) swears only to his own apprehensions, of which no other person can form an adequate judgment; from which it has been deduced by the judges, in many cases, as a general rule, that articles of the peace cannot be resisted on any ground, except by showing *direct* evidence of express malice; such as declarations to that effect; but not *inferred* malice, collected from general reasoning, or collateral circumstances; and, moreover, that wherever *particular facts* of violence are stated by the complainant, it is not permitted for the defendant to controvert them;

for they must be taken to be true, till negatived through the medium of an appropriate prosecution. (*Dick. Sess.* 504. And see the cases of *Lady Vane*, *Countesses Strathmore and Doherty*, *infra*.)

5. *How the Peace-Warrant may be superseded.*

In *R. v. Doherty*, 13 *East*, 171, articles of the peace having been exhibited against the defendant by his wife, process issued thereon to enforce appearance; and when he appeared in court with his sureties, his counsel tendered affidavits to the court in contradiction of the facts sworn to in the articles, for the purpose of discharging them. But the court were satisfied they could not receive affidavits on the part of the defendant to contradict the truth of the articles exhibited against him, and prevent his giving surety. (And see *Lord Vane's case*, 13 *East*, 171, *n*.)

But in *R. v. Bringloe*, 13 *East*, 174, *note*, though it was refused the defendant to controvert the facts, yet an explanation was allowed of such parts of the articles as were ambiguous.

And where an application was made to the court to enforce the subsequent process, and the articles manifestly appeared, from the corroborated affidavit of the defendant, to contain *malicious, voluntary, and gross perjury*, the court resisted the application and committed the offender. (*R. v. Parnell*, 2 *Burr.* 806; *R. v. Hon. P. Mackenzie*, 3 *Burr.* 1922.)

The court will not in general receive articles of the peace if the parties live at a distance in the country, unless they have previously made application to a justice in the neighbourhood, and he has improperly refused to receive them. (*R. v. Waite*, 2 *Burr.* 780.)

Where parties reside at a distance.

And where articles of the peace were exhibited, and it appeared that the facts charged were done at Portsmouth, the court ordered an indorsement to be made upon the attachment of the peace, authorizing and directing any justice in that county to take the security there, specifying the particular sums wherein the principals and also their sureties should be bound. (*Hutt's case*, 1 *Bla. Rep.* 233; 2 *Burr.* 1039, *S. C.*)

On an affidavit that the defendant was seventy years of age, and unable to travel, a *mandamus* was granted to three justices in Brecon to take security on articles of the peace exhibited in the King's Bench. (*R. v. Lewis*, 2 *Str.* 835.)

V. How the Peace-Warrant may be superseded.

It is said, that if one who fears that the surety of the peace will be demanded against him, find sureties before any justice of the same county, either before or after a warrant is issued against him, he may have a *supersedeas* from such justice, which shall discharge him from arrest from any other justice at the suit of the same party, for whose security he has given such surety. (1 *Haw. c.* 60, s. 14.)

Finding sureties before arrest.

In which *supersedeas* it is not necessary to name either the sureties or the sums in which they are bound: but yet it is the better form to express them both. (*Dalt. c.* 118.)

Also, it is said that an appearance upon a recognizance for the peace may be superseded, by finding sureties in the Chancery or King's Bench, and purchasing a writ, testifying the same; but this practice having been often abused, it is enacted, by the 21 *Jac. I. c.* 8, that no writs of *supersedeas* shall be granted out of the Chancery or King's Bench but upon motion in open court, and on such sufficient sureties as shall appear on oath to the court to be assessed in the subsidy-book at 5*l.* lands, or 10*l.* in goods; and unless it shall also first appear to the court, that the process of the peace or good behaviour is prosecuted against him, desiring such *supersedeas bonâ fide*, by some party grieved, in that court out of which the *supersedeas* is desired to be awarded. (1 *Haw. c.* 60, s. 14.)

Supersedeas in the Chancery or K. B.

VI. How the Peace-Warrant shall be executed.

See in general, *post*, "Warrant," Vol. VI.

By whom to be executed.

It can be executed only by the persons to whom it is directed, or some of them, unless it be directed to the sheriff, who may, either by parole or by precept in writing, authorize an officer sworn and known to serve it, but cannot empower any other person without a precept in writing. (1 *Haw.* c. 60, s. 11.)

Breaking open doors.

Where a person, authorized to arrest another who is sheltered in a house, is denied quietly to enter it, in order to take him, it seems generally to be agreed that he may justify breaking open the doors, (among other instances there stated) upon a *capias* from the King's Bench or Chancery, to compel a man to find sureties for the peace or good behaviour, or even upon a warrant from a justice of the peace for such purpose. (2 *Haw.* c. 14, s. 2.)

But no one can justify the breaking open another's doors to make an arrest, unless he first signify to those in the house the cause of his coming, and request them to give him admittance. (2 *Haw.* c. 14, s. 1. See title "House," Vol. III.; *post*, "Warrant," Vol. VI.)

What justice to be carried before.

If the warrant specially direct that the party shall be brought before the justice who made it, the officer ought not to carry him before any other; but if the warrant be general, to bring him before any justice of such place, the officer has the election to bring him before what justice he pleaseth, and may carry him to prison for refusing to find surety before such justice. (1 *Haw.* c. 60, s. 13.)

Supersedeas.

And if the party be carried before another justice, and not before him who issued the warrant, such other justice must take the surety, and bind him by recognizance, in all points, as the form of the precept doth require; and thereupon such other justice, having so taken surety of the peace, may and ought, upon request, to make his *supersedeas* to all officers, and to all other justices of the same county; and thereby the said party shall be discharged from finding other surety, and from any other arrest from the same cause; but by such *supersedeas* the other justice cannot discharge the warrant of the first justice, until the party be bound indeed; nor give any other day to the party to appear. (*Dalt.* c. 118.)

Whether he may be carried to prison without any further warrant.

If the warrant be in the common form, directing the officer to cause the party complained of to come before a justice to find sufficient surety, and if he shall refuse so to do, to convey him immediately to prison, without expecting any further warrant, until he shall willingly do the same, the officer who serves it, before he makes any arrest, ought first to require the party to go with him, and find sureties according to the purport of the warrant; but upon refusal to do either, that is, either to go before the justice or to find sureties, he may carry him to the gaol by force of the same warrant, without more. (1 *Haw.* c. 60, s. 12; *Dalt.* c. 118.)

And yet the constable or officer may bring him, in that case, before the justice; and if he refuse there to give sureties, he may commit him without further warrant or *mittimus*. (2 *Hale*, 112.)

Best not to leave the proceeding to the judgment of the constable.

Nevertheless, notwithstanding these great authorities, it may not be convenient for the justice to leave so much to the constable's judgment as to determine what shall or shall not be deemed a refusal to find such sureties; for that the constable is constituted a judge in such case by no law. And much less doth it seem advisable to require in the warrant, as is usual, that the constable shall carry the party to gaol, if he shall refuse to find *sufficient* sureties. It doth not appear how the constable can any way be deemed a competent judge of that; for it is certain that he cannot administer an oath to such sureties or others, whereby to inform himself of such sufficiency.

If the officer do arrest the party, and do not carry him before the justice to find sureties; or, upon the refusal of the party, if the officer shall arrest him and do not carry him to the gaol; in both these cases the officer is punishable by the justices for this neglect, by indictment and fine at their sessions. And also the party arrested may have his action of false imprisonment for the

arrest; for where the officer doth not pursue the effect of his warrant, his 8. *How recognizance shall be*
warrant will not excuse him of that which he hath done. (*Dalt.* c. 118.) *certified.*

When the party cometh before the justice, he must offer sureties, or else *Sureties.*
the justice may commit him; for the justice needeth not to demand surety
of him. (*Dalt.* c. 118, 169.)

The amount of the security is, it seems, wholly discretionary in the justice, and the Court of King's Bench cannot afterwards interfere to reduce its amount. (*Rex v. Holloway*, 2 *Dowl. P. C.* 525; and see *ante* 898.)

If the justice was deceived in the sufficiency of the sureties, he or any *Insufficient sure-*
other justice may afterwards compel the party to find and put in other suffi- *ties.*
cient sureties, and may take a new recognizance for the same. (*Dalt.*
c. 116, 119.)

If the sureties die, the party principal shall not be compelled to find new *Sureties dying.*
sureties, (*Dalt.* c. 119,) because their executors and administrators are
liable.

But if a man that was bound to keep the peace hath broken his bond, the *Breaking of the*
justices ought, of discretion, to bind him anew. (*Lamb.* 78.) *bond.*

But not until he be thereof convicted by due course of law; for, before con-
viction, he standeth indifferent whether he hath forfeited his recognizance or
not. (*Crompt.* 125.)

VII. Form of a Recognizance for the Peace.

The form of the recognizance, when taken before a justice upon a complaint *Form of recog-*
below, is chiefly in the discretion of such justice, both as to the number and *nizance.*
sufficiency of the sureties, and the largeness of the sum, and the continuance
of the time for which the party shall be bound. See form, *post* 917 (No. 6.)
The form of a recognizance, when taken in pursuance of a writ of *supplicavit*,
may be wholly governed by the direction of such writ.

A recognizance to keep the peace as to any person, for a year, or for life,
or without expressing any certain time (in which case it shall be intended for
life), or without fixing any time or place for the party's appearance, or with-
out binding him to keep the peace against all the king's people in general, is
good. (1 *Haw.* c. 60, s. 15; and see this fully recognized in *Willes v.*
Bridger, 2 *B. & Ald.* 278, S. C.)

However, it is the most usual way for justices out of sessions to bind the
party to appear at the next sessions of the peace, and in the meantime to keep
the peace as to the king and all his liege people, especially as to the party.
(*Hawk.* c. 60, s. 16.) But this is not absolutely requisite, and justices
out of sessions are not bound to take recognizance to the next sessions only.
(*Willes v. Bridger*, 2 *B. & Ald.* 278.)

If the recognizance be to appear at the sessions, and application be made
for an order of court for finding sureties, it seems that articles of the peace
must be exhibited for that purpose, and that the practice that once existed of
calling on the party at the following sessions, at which he is bound to appear
to find sureties to the following sessions, *and so on from sessions to sessions*
without any fresh complaint, is improper. (See *R. v. Bowes*, 1 *T. R.* 696;
3 *Burn. J.*, 27th ed. 882.)

The fear of one cannot be the fear of another; and, therefore, every recog- *Recognizance*
nizance must be separate. (*Pult.* 18.) But the court of King's Bench have *must be separate.*
allowed three women to file joint articles of the peace against three men.
R. v. Nettle, &c. 1 *Haw. P. C.* c. 60, note, 7th edit.

VIII. How Recognizance shall be certified.

If it be taken by force of a writ of *supplicavit*, it needs not be certified till *How to be certi-*
the justice receive a writ of *certiorari* to that purpose. But if it be taken *fied.*
upon a complaint below, it must be certified, sent, or brought to the next
sessions, by force of the 3 *Hen. VII.* c. 1, that the party so bound may be
called. (1 *Haw.* c. 60, s. 18.)

IX. How Recognizance may be forfeited.

What is deemed
no forfeiture.

There are divers things which may be done against the peace and divers offences for which an indictment against the peace will lie, and yet the committing or doing such offence or act shall be no forfeiture of the recognizance for the peace; for that the act that shall cause a forfeiture of such recognizance must be done or intended unto the person as is aforesaid, or in terror of the people. Therefore to enter into lands, where he ought to bring his action; or to disseise another of his lands; or to enter into lands or tenements with force, being without offer of violence to any man's person, and without public terror; or to do a trespass in another man's corn or grass, or to take away another man's goods wrongfully, so it be not from his person; or to steal another man's horse, or other goods feloniously, being not from his person: all these, and the like, are breaches of the peace, and yet these will make no breach of this recognizance, nor breach of the peace within the meaning of the commission of the peace. (*Dalt. c. 121.*)

What shall be a
forfeiture.

But the recognizance is forfeited if the party make default of appearance, and the same default shall be recorded. (3 Hen. VII. c. 1.)

However, if the party have any excuse for his not appearing, it seems that the sessions are not bound peremptorily to record his default, but may equitably consider of the reasonableness of such excuse. (1 *Haw. c. 60, s. 18.*)

Case of sickness.

And Mr. *Dalton* says, in case of the sickness of the party, so that he cannot appear, he has known that the justices, upon due proof thereof, have forborne to certify or record such forfeiture or default; and that they have taken sureties for the peace of some friends of his present in court, until the next sessions; for that the principal intent of the recognizance was but the preservation of the peace. But he queries how this is warrantable by their oath. (*Dalt. c. 120.*)

Actual violence.

Also, there is no doubt but that it may be forfeited by any actual violence to the person of another, whether it be done by the party himself, or by others through his procurement: as manslaughter, rape, robbery, unlawful imprisonment, and the like. (1 *Haw. c. 60, s. 20.*)

Threatening
words.

Also, it hath been holden, that it may be forfeited by any treason against the king's person, and also by any unlawful assembly *in terrorem populi*, and even by words directly tending to a breach of the peace, as by challenging one to fight, or in his presence threatening to beat him. (1 *Haw. c. 60, s. 21.*)

Otherwise it is if the party be absent; and yet, if the party so bound shall threaten to kill or beat a person who is absent, and after shall lie in wait for him to kill or beat him, this is a forfeiture of the recognizance. (*Dalt. c. 121.*)

However, it seems that it shall not be forfeited by bare words of heat and choler, as calling a man a knave, teller of lies, rascal, or drunkard; for though such words may provoke a cholerick man to break the peace, yet they do not directly challenge him to it, nor does it appear that the speaker designed to carry his resentment any farther; and it hath been said that even a recognizance for the good behaviour shall not be forfeited for such words; from whence it follows, *a fortiori*, that a recognizance for the peace shall not. (1 *Haw. c. 60, s. 22.*)

An actual assault
in some cases
does not amount
to a forfeiture.

Also, there are some actual assaults on the person of another, which do not amount to a forfeiture of such recognizance: as if an officer, having a warrant against one who will not suffer himself to be arrested beat, or wound him in the attempt to take him; or if a parent in a reasonable manner chastise his child; or a master his servant, being actually in his service at the time; or a schoolmaster his scholar; or a gaoler his prisoner, or even a husband his wife, as some say; or if one confine a friend who is mad, and bind and beat him, in such a manner as is proper in such circumstances; or if a man force a sword from one who offers to kill another therewith; or if a man gently lay his hands upon another, and thereby stay him from inciting a dog

against a third person; or if a man beat another (without wounding him, or 11. *How re-throwing at him a dangerous weapon, who wrongfully endeavours with cognizance may violence to dispossess him of his lands or goods, or the goods of another be discharged.* delivered to him to be kept, and will not desist upon his laying his hands gently on him, and disturbing him; or if a man beat, or (as some say) wound or maim one who makes an assault upon his person or that of his wife, parent, child, or master, especially if it appear that he did all he could to avoid fighting before he gave the wound; or if a man fight with or beat one who attempts to kill any stranger; or if a man even threaten to kill one who puts him in fear of death, in such a place where he cannot safely fly from him; or if one imprison those whom he sees fighting, till the heat is over. (1 *Haw. c. 60, s. 23, 24.*)

X. How the Recognizance, being forfeited, shall be proceeded on.

Before the 3 Geo. IV. c. 46, it was said, that the sessions could not in any case proceed against the party for a forfeiture of his recognizance, either in respect of his not appearing, or breaking the peace; but that the recognizance itself, with the record of default of appearance, ought to be removed into some of the courts at Westminster, who should proceed by *scire facias* upon such recognizance; and so it ought to have been before that act, if it be presented by the jury or grand inquest that the party had forfeited his recognizance by breach of the peace. (1 *Haw. c. 60, s. 18; Dalt. c. 70.*) But see now the 3 Geo. IV. c. 46; *ante*, title "*Fines and Forfeited Recognizances*," Vol. II. p. 842.

How forfeited recognizance proceeded on.

This writ of *certiorari* is obtained on laying an affidavit of the circumstances before a judge at chambers, who will grant a *fiat* for the writ to issue; when the writ has been served and the recognizance is returned, a writ of *scire facias* is sued out at the Crown Office, stating the recognizance and suggesting the breach of it. This is delivered to the sheriff of the county in which the defendant resides, and he gives notice of it to the defendant, who must enter an appearance at the Crown Office, and plead any matter in defence; and on this issue is joined, and that issue tried in the same way as any other issue joined in the Crown Office, except that no proclamation is made at the trial, there being no crime to be tried. If the jury find the recognizance has been forfeited, they find a verdict for the crown, and judgment is entered up, and a *fi. fa.* or *ca. sa.* issued out of the Crown Office for the amount of the recognizance; but if to these writs there be a return of *nihil* or *non est*, or if the prosecutor take no steps on the judgment so signed, the recognizance is estreated into the Exchequer by the master of the Crown Office, in the same way as the recognizance forfeited by the non-appearance of a party to receive judgment; and process issues from the Exchequer. (*R. v. Wiblin*, 2 C. & P. 11, n.)

XI. How Recognizance may be discharged.

He who is bound to the peace, and to appear at a certain day, must appear at that day and record his appearance, although he who craved the peace cometh not to desire that it may be continued; otherwise the recognizance cannot be discharged. (*Dalt. c. 120.*)

Discharged on appearance.

If the recognizance be made to keep the peace generally, without any time or day limited, it shall be construed to be during the party's life; and this the justice may do upon reasonable cause: but if such surety be so taken during the offender's life, neither the king, nor the justice, nor the party, can release or discharge it; and, therefore, the justice must be well advised how he granteth such surety. (*Dalt. c. 119.*)

But it seems to be agreed, that it may be discharged by the death or death of the king.

1. *For what misbehaviour it is to be required.*

Or the release of the party.

How pardoned by the king.

May be discharged or continued by the sessions.

Party demanding sureties dying.

Forms as to.

mise of the king in whose reign it was taken, or of the principal party who was bound thereby, if it were not forfeited before. (1 *Haw. c. 60, s. 17.*)

Also it hath been holden, that it may be discharged by the release of the party at whose complaint it was taken, being certified together with it; but this may justly be questioned, because the recognizance is not to the subject, but to the king, and consequently cannot be discharged by the subject, who is not a party to it: however, such a release will be a good inducement to the court to which such a recognizance shall be certified, to discharge it. (*Id.*)

It is certain that such a recognizance cannot be pardoned or released by the king before it be broken, because the subject hath a kind of interest in it; but being forfeited, then the king, and no other, may release and pardon the forfeiture. (*Id.*)

And it is said that the sureties are not discharged by their death, but that their executors continue to be bound as their testators were. (1 *Haw. c. 60, s. 17; Dalt. c. 120.*)

And if a man be bound to keep the peace towards the king and all his people, but not towards any person certain, and to appear at such a sessions, the court at that sessions may make proclamation, that if any man can show cause why the peace granted against such a one shall be continued, he shall speak; and if no person cometh to demand the peace against him, or to show cause why it should be continued, then the court may discharge him. But if a man be bound as aforesaid, and especially to keep the peace towards a certain person, there, though such person cometh not to desire the peace may be continued, yet the court by their discretion may bind him over till the next sessions, and that may be to keep the peace against that person only, if they shall think good; for it may be that the person who first craved the peace is sick, or otherwise letted, so as he cannot come to that sessions to demand the continuance of the peace further. (*Dalt. c. 120. Sed vide ante, p. 899.*)

Likewise, if the party be imprisoned for default of sureties, and after he that demandeth the peace against him happen to die, it seemeth the justice may make his *liberate* or warrant for the delivery of such prisoner; for, after such death, there seemeth no cause to continue the other in prison. Also, any justice may, upon the offer of such prisoner, take surety of him for the peace, and may thereupon deliver him. (*Dalt. c. 118.*)

See forms, *post*, 915.

Surety for the Good Behaviour.

Good behaviour includeth the peace.

A MAN may be compelled to find sureties both for the good behaviour and for the peace; and yet the good behaviour includeth the peace; and he that is bound to the good behaviour is therein also bound to the peace. (*Dalt. c. 122.*)

This surety for the good behaviour being of near affinity to surety for the peace, both as to the manner in which it is to be taken, superseded, and discharged, it seemeth not to require a particular consideration, save only as to these two points:

I. *For what Misbehaviour it is to be required*, p. 906.

II. *For what it shall be forfeited*, p. 914.

I. *For what Misbehaviour it is to be required.*

For what misbehaviour it is to be required.

It doth not appear that the conservators of the peace at common law had any power as touching the good behaviour, further than as it had a relation to the peace; and not as it is contradistinguished from it. And it seemeth that the power which the justices of the peace do exercise at this day, in

relation thereto, doth solely depend upon the commission of the peace, and the statute of the 34 Edw. III. c. 1. (Except in some special instances, wherein the power of binding to the good behaviour is given to them by particular statutes, which pertain not to this general title.)

1. *For what misbehaviour it is to be required.*

The words in the commission are these: "We have assigned you jointly and severally, and every one of you, our justices, to keep our peace, and to cause to come before you, or any one of you, all those who to any one or more of our people concerning their bodies, or the firing their houses, have used threats; to find sufficient security for the peace or their good behaviour towards us and our people; and if they shall refuse to find such security, then them in our prisons, until they shall find such security, to cause to be safely kept."

Power given to justices by the commission.

The 34 Edw. III. c. 1, as to this matter, runs thus: "In every county shall be assigned for the keeping of the peace one lord, and with him three or four of the most worthy in the county, with some learned in the law; and they shall have power to restrain the offenders, rioters, and all other barrators, and to pursue, arrest, take, and chastise them according to their trespass or offence; and to cause them to be imprisoned and duly punished according to the law and customs of the realm, and according to that which to them shall seem best to do by their discretions and good advisement; and also to inform them, and to inquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering, and will not labour as they were wont in times past; and to take and arrest all those that they may find, by indictment, or by suspicion, and to put them in prison; and to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people, and the other duly to punish, to the intent that the people be not by such rioters or rebels troubled nor endangered, nor the peace blemished, nor merchants nor others passing by the highways of the realm disturbed, nor put in the peril which may happen of such offenders."

34 Edw. 3, c. 1.
Power given by statute.

This statute seems to have had in view chiefly the disorders to which the country was then liable, from great numbers of disbanded soldiers, who having served abroad in the wars of that victorious king, were grown strangers to industry, and were rather inclined to live upon rapine and spoil. (*Barl.* 524.)

But whatever the natural and obvious sense of it may be when compared with the history and circumstances of those times, it is certain that it hath been carried much further by construction, and the purport of it hath been extended by degrees, until at length there is scarcely any other statute which hath received such a largeness of interpretation.

And that I may proceed with clearness in a matter so essential to the office of a justice of the peace, I will set down the several expositions which have been given of this statute from time to time by learned men, and then raise such observations thereupon as the subject will naturally suggest.

Observations of learned men on the subject.

The first unfolding of the sense of this statute which has occurred, was in the case of Sir *Richard Croftes* and Sir *Richard Corbet*, in the second year of the reign of king Henry VII., wherein it was resolved by all the judges, for that purpose assembled, that he who is bound to the good behaviour ought not to do anything which shall be cause of breach of the peace, or to put the people in fear, dread, or trouble: and so shall be intended of all things which concern the peace: but not in misdoing of other things which touch not the peace. Yet a diversity was observed between a breach of the peace and a breach of the good behaviour, for the peace is not broken without an affray or battery, but the good behaviour may be forfeited by the number of people a man has, and by their harness, or weapons, and the like, although they break not the peace. (2 Hen. VII. c. 2.)

Surety of good behaviour relates to matters concerning the peace.

The second instance, and upon which much stress hath been laid, was in the 13th year of the same king. In trespass of assault, battery, and imprisonment at D., the defendant saith that one *Alice B.* had a house in the same town, and kept there suspicious people, to wit, of common bawdry, and that the plaintiff oftentimes resorted to the same house suspiciously with

May be had of persons frequenting bawdy houses.

1. *For what misbehaviour it is to be required.*

Opinion of Fitzherbert that it may be taken by one justice only.

Abusive words and common trespass not a breach of recognizance.

women of bad fame and name, whereby the constable of the same town required the defendant to aid him to arrest the plaintiff, to find surety of his good behaviour; whereby the defendant came with the said constable at the hour of twelve in the night, and him found suspiciously in the same place; whereupon he took him and put him in ward; and it was holden by all the justices to be a good justification; for they said, that it is lawful for every constable to take suspected persons, which wake in the night and sleep in the day, or that keep suspicious company. (13 Hen. VII. c. 10.)

In the next place, Sir *Anthony Fitzherbert*, who lived in the reign of king Henry VIII., saith, that it seemeth that one justice may, by the commission, issue a warrant against a person to find surety of the good behaviour, by his discretion, as well as two justices may: and the words of the statute of the 34 Edw. III. are to the same effect. Otherwise, he says, damage may happen to some of the king's subjects, if the party be not attached, before that two justices have made the precept; yet, he says, the common usage is, to make such precept of the good behaviour in the name of two justices, and it is good to observe this direction. (*Fitz. 7*; see *Crompt. 122, 126, and post 912.*)

In the next place, it is proper to take notice of a case adjudged in the Court of King's Bench, in the 30th of queen Elizabeth, reported by *Ld. Coke, 4 Inst. 181*, which was thus:—At the sessions at Bridgewater, in the county of Somerset, one *William King* with sureties was bound by recognizance to appear at the next general sessions of the peace in the same county, and in the mean time to be of the good behaviour towards the queen and all her people. And after, at the next sessions, *William King* appeared, and was indicted for slanderous words spoken since his binding, to wit, for saying at one time to *Edward Kyrton, Esq.*, “*Thou art a peller, thou art a liar, and hast told my lord lies.*” And he was further indicted, that since the said recognizance, “*the close of one John Wick with force and arms he broke and entered, and the cattle of the said John depasturing in the said close unlawfully vexed and chased.*” And afterwards, at another time, he said to the said *Kyrton*, “*Thou art a drunken knave.*” Which indictment was removed into the King's Bench. And hereupon it was debated divers times, both at the bar and the bench, whether, admitting all that is contained in the indictment to be true, anything therein was, in judgment of law, a breach of the said recognizance. And it was resolved, that neither any of the words, nor the trespass, were any breach of the good behaviour, for that none of them did tend immediately to the breach of the peace; for though the said words, “*Thou art a liar, thou art a drunken knave,*” are provocations, yet they tend not immediately to the breach of the peace; as if *William King* had challenged *Kyrton* to fight with him, or had threatened to beat or wound him, or the like; these tend immediately to the breach of the peace, and are therefore breaches of the recognizance of the good behaviour. And this diversity (*Ld. Coke* says) was justly collected upon the coherence and context of the statute of the 34 Edw. III., whereby justices are assigned for keeping the peace, and to restrain the offenders, rioters, and all other barrators, and to chastise them according to their trespass and offence; and to inquire of pillors and robbers in the parts beyond the seas, and be now come again, and go wandering, and will not labour. And thus much for the punishment of offences against the peace after they be done. Then followeth an express authority given to justices, for prevention of such offences before they be done, namely, “*and take of all them that be not of good fame*” (that is, that be defamed and justly suspected that they intend to break the peace), “*where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people*” (which must concern the king's peace, as is also provided by the words subsequent), “*to the intent that the people be not by such rioters troubled or endamaged, nor the peace blemished, nor merchants nor others passing by the highways disturbed, nor put in peril that may happen of such offenders.*” And as for the trespass: although every wrongful trespass is by force and arms, and against the peace, yet these are not taken to be such as shall make a breach of the good behaviour.

Opinion of Lambard.

After this, Mr. *Lambard*, who wrote towards the beginning of the reign of

king James the First, saith thus:—*Surety of the good abearing is of great affinity with that of the peace, as being provided for preservation of the peace, as that other is; for in the commission of the peace they are both conveyed under one tract of speech, against such as threaten to hurt men's bodies, or fire their houses; which things (he says) are now commonly prevented by surety of the peace only.* (Lamb. 115.)

And in the 2 Hen. VII. c. 2 (above recited), the surety of the good abearing is set forth to rest in this point chiefly, that a man do nothing that may be cause of a breach of the peace; and that it doth not consist in the observation of things that concern not the peace; and that it should differ from surety of the peace in this, that where the peace is not broken without an affray, or battery, or such like, the surety may be broken by the number of a man's company, or by his or their weapons or harness.

And herewithal (he says) do also agree certain precedents in the King's Bench.

But all this notwithstanding, he thinks that a man may reasonably affirm, that the surety of good abearing should not be restrained to so narrow bounds.

In proof of which, he proceeds to comment on the above-mentioned statute of the 34 Edw. III., enabling the keepers of the peace "*to take of them all that be not of good fame, where they shall be found, sufficient surety and mainprize of their good abearing towards the king and his people;*" so that, if a man be defamed, he may, by virtue hereof, be bound to his good behaviour at the discretion of the justices. Now, the doubt resteth in this—to understand concerning what matters this defamation must be: and this (he thinks) may be partly gathered out of the said statute; for after it hath first given power to the wardens of the peace to arrest and chastise offenders (that is to say, against the peace, rioters, and barrators), then it willeth them to "*inquire of such as, having been robbers beyond the sea, were come over hither, and would not labour as they were wont;*" and, lastly, it authorizes them "*to take surety of the good behaviour of such as be defamed,*" namely, for any of those former offences; for so it standeth well together that they should both punish such as have already so offended, and shall also provide that others shall not likewise offend.

But he says, the further this bond of the good abearing doth extend, the more regard there ought to be taken in the awarding of it; and therefore (says he) although the justices have power to grant it, either by their own discretion or upon the complaint of others, even as they may that of the peace, yet I wish rather that they do not command it but only upon sufficient cause seen to themselves, or upon the complaint of other very honest and credible persons.

And then being about to set forth the form of a warrant, and of a recognizance for the good behaviour, he says, "And here, forasmuch as one justice alone, and out of sessions, may both, by the first clause of the commission, and also by the opinion of *Fitzherbert*, grant this surety of the good abearing (although the common practice be, that two such justices do join in that doing, whereof also *Fitzherbert* hath very good liking), I will not stick to set forth the common forms, as well of the precept as of the recognizance for the same, wherein if I shall use the names of two justices, you must take that to be done according to the common fashion, and not of any necessity in law. For as I would more gladly use the assistance of a fellow-justice in this behalf, if I may conveniently have it, so if that may not be gotten, I would not greatly fear, when good cause shall require, to undertake the thing myself alone."

"And besides this," he says, "you may see admitted by the opinion of the court, 13 Hen. VII., that if a man in the night season haunt a house that is suspected for bawdry, or use suspicious company, then may the constable arrest him to find surety for his good abearing; for bawdry is not merely a spiritual offence, but mixed and sounding somewhat against the peace of the land."

"And, therefore," says he, "it shall not be amiss at this day, in my

Of whom surety may be required.

On sufficient cause.

One justice may take the surety.

For immoral practices.

1. *For what misbehaviour it is to be required.*

slender opinion, to grant surety of the good abearing against him that is suspected to have begotten a bastard child, to the end that he may be forthcoming when it shall be born; for otherwise there will be no putative father found, when the justices shall, after the birth, come to take order for his punishment." (*Lamb.* 119.)

Opinion of Pulton.

In the next place, Mr. *Pulton*, who lived about the same time with Mr. *Lambard*, writeth thus:—"The surety of the good abearing is ordained for the preservation of the peace, and it doth differ in nothing from that of the peace, but that there is more difficulty in the performance of it, and the party bound may sooner slide into the peril and danger of it. The surety of good abearing is most commonly granted in open sessions, or by two or three justices; or, upon a *supplicavit*, and great cause shown and proved, it is granted in the Chancery or King's Bench. And though one justice alone may grant it if he will, yet it is seldom done so, unless it be to prevent some great, sudden, and imminent enormity or danger. The surety of the peace is most times taken at the request of one for the preservation of the peace

Nature of surety.

chiefly against one. But the surety for the good abearing is oftentimes granted at the suit of divers, and those must be men of credit, and to provide for the safety of many; for the effect and purport thereof is, that the party bound shall demean himself well in his port, behaviour, and company, and do nothing that may be the cause of breach of the peace, or in putting the people in fear or trouble; and it is chiefly granted against common barrators, common rioters, common quarrellers, common peace-breakers, and persons greatly defamed for resorting to houses suspected to maintain incontinency or adultery, and against those that be generally feared to be robbers or spoilers of the king's people, or which do endamage, disturb, trouble, or put in peril passengers by the way." (*Pult.* 18.)

Opinion of Dalton.

Afterwards, Mr. *Dalton*, who wrote towards the latter end of the reign of King James the First, says, "The surety of good behaviour is of great affinity with that of the peace, and is provided chiefly for the preservation of the peace; and is most commonly granted either in the open sessions, or by two or three justices out of sessions. Yet by the words of the commission, as also by the common opinion of the learned, one justice alone out of sessions may grant this surety of the good behaviour. But this is not usual, unless it be to prevent some great and sudden danger, especially against a man that is of any good estate, carriage, or report. And it shall be good discretion in the justices that they do not grant it, but either upon sufficient cause seen to themselves, or upon the suit or complaint of others, and the same very honest and credible persons." (*Dalt. c.* 123.)

Opinion of Hawkins.

In the next place, Mr. *Hawkins*, who wrote in the reign of King George the First, saith thus:—"There seem to have been some opinions that the statute, speaking of those that be 'not of good fame,' means only such as are defamed and justly suspected that they intend to break the peace, and that it does not any way extend to those who are guilty of other misbehaviours not relating to the peace. But this seems much too narrow a construction; since the above-mentioned expression of persons of 'evil fame,' in common understanding, as properly includes persons of scandalous behaviour in other respects, as those who by their quarrelsome behaviour give just suspicion of their readiness to break the peace; and accordingly it seems always to have been the better opinion, that a man may be bound to his good behaviour for many causes of scandal, which give him a bad fame, as being contrary to good manners only: as for haunting bawdy-houses with women of bad fame; or for keeping bad women in his own house; or for speaking words of contempt of an inferior magistrate, as a justice of the peace, or mayor, though he be not then in the actual execution of his office; or of an inferior officer of justice, as a constable and such like, being in the actual execution of his office." (1 *Haw. c.* 61, s. 2.)

May be required of those who lead ill lives.

Who abuse justices, &c.

"However, it seems the better opinion, that no one ought to be bound to the good behaviour for any rash, quarrelsome, or unmannerly words, unless they either directly tend to a breach of the peace, or to scandalize the government, by abusing those who are intrusted by it with the administra-

tion of justice, or to deter an officer from doing his duty; and therefore it seems that he who barely calls another rogue or rascal, or teller of lies, or drunkard, ought not for such cause to be bound to the good behaviour." (1 *Haw. c. 61, s. 3.*)

"However," says he, "I cannot find any certain precise rules for the direction of the magistrate in this respect; and therefore am inclined to think, that he has a discretionary power to take such surety of all those whom he shall have just cause to suspect to be dangerous, quarrelsome, or scandalous; as of those who sleep in the day, and go abroad in the night; and of such as keep suspicious company; and of such as are generally suspected to be robbers, and the like; and of eves-droppers; and common drunkards; and all other persons, whose misbehaviour may reasonably be intended to bring them within the meaning of the statute, as persons of evil fame, who being described by an expression of so great latitude, seem in a great measure to be left to the judgment of the magistrate. But if he commit one for want of sureties, he must show the cause with convenient certainty." (1 *Haw. c. 61, s. 4.*)

1. *For what misbehaviour it is to be required.*
Quarrelsome and dangerous persons.

And thus the sense of the statute hath been extended not only to offences immediately relating to the peace, but to divers misbehaviours not directly tending to a breach of the peace; insomuch as it is become difficult to define how far it shall extend, and where it shall stop.

Mr. *Dalton*, in order to determine the same with some kind of certainty, hath (notwithstanding his opinion as above mentioned) inserted a number of instances, wherein sureties of the good behaviour may be granted; and they are these that follow: (a)

Against whom in general sureties of the good behaviour may be granted.

1. Against rioters.
2. Barrators.
3. Common quarrellers, and common breakers of the peace.
4. Such as lie in wait to rob, or shall be suspected to lie in wait to rob, or shall assault, or attempt to rob another, or shall put passengers in fear or peril, or shall be generally suspected to be robbers by the highway.
5. Such as are like to commit murder, homicide, or other grievances, to any of the king's subjects in their bodies.
6. Such as shall practise to poison another; one instance of which may be the poisoning of their food. Thus, Mr. *Dalton* granted the good behaviour against one who had bought ratsbane, and mingled it with corn, and then cast it among his neighbour's fowls, whereby most of them died.
7. Such as in the presence and hearing of the justice shall misbehave themselves in some outrageous manner of force or fraud.
8. Such as are greatly defamed for resorting to houses suspected to maintain adultery or incontinency.
9. Maintainers of houses commonly suspected to be houses of common bawdry.
10. Common whoremongers and common whores; for bawdry is an offence temporal as well as spiritual, and is against the peace of the land.
11. Night-walkers and eves-droppers.
12. Suspected persons, who live idly, and yet fare well, or are well-apparelled, having nothing whereon to live; unless upon examination they shall give a good account of such their living.
13. Common gamesters, especially if they have not whereon to live.
14. Such as raise hue and cry without cause.
15. Libellers.
16. Putative father of a bastard child.
17. Such as persuade or procure the putative father to run away, or the mother to be conveyed away, whereby she leaveth her child to the charge of the town.
18. Such as abuse a justice's warrant, or shall abuse him or the constable in executing their offices. Nay, it seemeth, he says, that he who shall use

(a) And see the respective titles as to these offences throughout this work.

1. For what misbehaviour it is to be required.

words of contempt, or contrary to good manners, against a justice of the peace, though it be not at such a time as he is executing his office, yet he shall be bound to his good behaviour.

19. Such as charge another before a justice with felony, riot, or forcible entry, and yet will not prosecute or give evidence.

20. In general, whatsoever act or thing is of itself a misbehaviour, is cause sufficient to bind such an offender to the good behaviour. (*Dalt. c. 124.*)

To which others have added other instances; as—

21. Forcible entry. (*1 Haw. c. 64, s. 8.*)

22. Mr. *Hawkins* says, “that he hath heard it agreed in the Court of King’s Bench, that a writing full of obscene ribaldry, without any kind of reflection upon any one, is not punishable at all by any prosecution at common law; yet it seems,” he says, “that the author may be bound to his good behaviour, as a scandalous person of evil fame.” (*1 Haw. c. 73, s. 9.*)

23. A man did beat a woman in Westminster Hall, and he was bound to the good behaviour; and so, says Mr. *Crompton*, “he may be bound to the peace and good behaviour, where he striketh a person in the presence of the justices in sessions.” (*Crompt. 124.*)

24. A man was bound to the good behaviour by the Court of King’s Bench, for assaulting and threatening a person, so that he could not attend the court in suit there, without great cost. And so it seemeth that it may be done where one cometh to the sessions about a traverse to be tried there, or to prefer a bill of indictment, if he be assaulted or threatened. (*Crompt. 125.*)

Observations by Dr. Burn.

I have omitted to make any remarks in the progress of these authorities, being willing to exhibit them together in one view; I proceed now to take notice of such observations as do occur upon the whole.

Power of one justice.

First, it appears from hence, that the universal practice of one justice binding to the good behaviour is but of a modern date; although the law for it is the same now that it was near four hundred years ago; and that it was a long time doubted whether one justice alone could require sureties of the good behaviour. But here a distinction ought to be made between the power given by the commission of the peace and the power given by the above-mentioned statute: as to the commission, there seemeth to be no foundation for any doubt, but that thereby one justice alone may require such sureties; for the words are express, “We have assigned you, jointly and severally, and every one of you:” but then that extends only to two instances, namely, to “the threatening of a person concerning his body, or the firing of his house.” As to the statute, the doubt seems to have arisen upon this; in that, having appointed who shall be assigned for justices, it then directeth that “they shall have power to restrain offenders;” and it is holden, Mr. *Lambard* hath observed, “that if no power be expressly given by any statute to any one justice alone, he cannot otherwise compel the observation thereof, than by the help of his fellow-justices.” And Mr. *Hawkins*, speaking hereof in the case of riots, says, “that if one justice alone, proceeding upon this statute, shall arrest an innocent person as a rioter, it seemeth that he is liable to an action of trespass, and that the party arrested may justify the rescuing of himself; because no one single justice is by this statute made a judge of the said offence: yet, nevertheless,” he says, “by a favourable construction which this statute hath received for the advancement of justice, it hath been resolved, that any one justice upon this statute, ‘if he find the persons riotously assembled,’ may, without staying for his companions, arrest the offenders, and bind them to their good behaviour.”

Extension of cases in which surety may be required.

Secondly, it seemeth, from what hath been rehearsed, that the words, “not of good fame,” were generally understood for a long time to refer to such offences only as have a relation to the peace, and not to other things which concern not the peace.

Thirdly, that one great inlet to the larger, and at length almost unlimited interpretation of the words, was the case above mentioned, 13 Hen. VII., wherein it was adjudged to be lawful to arrest a man for the good behaviour,

for frequenting a suspected bawdy-house, with women of bad fame. And 1. *For what this is the reason which Mr. Dalton gives for many of his instances above specified,—namely, that they are more properly against the peace than this same case of avoutry.* (*Dalt. c. 124, p. 289.*) *misbehaviour it is to be required.*

Fourthly, That when once the gap was opened for the admission of other offences not immediately relating to the peace, they flowed in and multiplied. Thus, in the case of bastardy, having some affinity with the other, of frequenting bawdy-houses, Mr. *Lambard* thought that, with equal reason, the reputed father of a bastard child might be bound to the good behaviour; and, in a few years after, Mr. *Dalton* delivers it absolutely, that he may be so bound.

Fifthly, That, therefore, the natural and received sense of any statute ought not to be departed from without extreme necessity; for that one concession will make way for another, and the latter will plead for the same right of admission as the former.

Sixthly, That, notwithstanding the aforesaid instances given by Mr. *Dalton* and others, it may not be safe in all cases to rely upon every one of them without distinction; not only because it is almost impossible for any two cases to be exactly alike in all other circumstances, but also because in fact divers of them, at different times, have been adjudged otherwise, and others have not prevailed without much difficulty and contradiction in the courts above, and, perhaps, were at length admitted rather from the conveniency and reasonableness of the thing itself, and from an indulgence usually allowed to those gentlemen who serve their country without gain, and oftentimes with much trouble, than from any clear, positive, and express power given to them by the commission, or by the said statute.

Seventhly, That, notwithstanding all which hath been said, perhaps the case before recited, concerning the frequenting of a suspected bawdy-house, will not support the weight which so many authors have laid upon it. For the question, whether a justice of the peace had cognizance of the offence by virtue of the commission of the peace, or of the statute of the 34 Edw. III., was no part of the dispute; for it was an arrest by the constable *ex officio*, as a conservator of the peace at common law, and without any warrant from a magistrate; and the question was not whether the constable might require sureties for the good behaviour, as a thing different from sureties for the peace, but whether in that case he could arrest at all or not.

And if the authority of this case shall be abated, several of the above-mentioned instances will abate in proportion.

Eighthly, It is to be observed, that others of the above said instances were established upon matters originally determined in the Court of King's Bench, and Mr. *Crompton* himself refers to the authority and practice of that court in several instances. (*Crompt. 120.*) But it doth by no means follow, from what the justices of the Court of King's Bench may do, that the justices of the peace may do the like; for their authority is circumscribed and limited by their commission and the statute law.

Ninthly, That it will perhaps abate some other of the foregoing instances, if we attend to this consideration: that there is a great difference between what the justices in sessions may do, after a conviction by a jury, for an offence committed, and what a single justice out of the sessions may do, before an offence is committed, and to prevent the same from being committed; or what a single justice may do, upon a summary conviction before him, for an offence, as directed by some special act of parliament. The truth is, binding to the good behaviour was a discretionary judgment at the common law, given by a court of record for an offence at the suit of the king, after a common law conviction by verdict of twelve men. Trial by his peers is the Englishman's birthright by the great charter, and cannot be taken away but by an authority equal to that which established it,—that is, by act of parliament; and, therefore, where an act gives a summary conviction before a justice of the peace, and inflicts a punishment upon such conviction, such statute must be pursued both as to the conviction and punishment. And it seemeth incongruous, that a justice of the peace shall have power to

Binding to good behaviour after a common law conviction.

2. *For what it shall be forfeited.*

Great caution recommended.

Discretion defined.

bind a man to the good behaviour, for an offence which he himself hath no power to hear and determine; for that is, in effect, giving judgment, and awarding execution, when it doth not and cannot legally appear to him that the person is guilty.

Tenthly, That, therefore, upon the whole, it may be proper to conclude, that the magistrate, in this article of the good behaviour, cannot exercise too much caution and good advisement; that in matters which the law hath left indefinite, it is better to fall short of than to exceed his commission and authority; that to bind a man to the good behaviour upon the statute for *evil fame* in general may not always be with safety: not only because upon an action brought it may be hard to prove such evil fame, but also because in fact it is not always true, for many a good man hath been evil spoken of; that although, in some cases, a justice of the peace may have a *discretionary* power (as Mr. *Hawkins* expresseth it), yet he must remember withal that it is a *legal* discretion, as Mr. *Barlow* terms it, in which, in favour of liberty, great tenderness is to be used; or, as Lord *Coke* hath defined it, discretion is a knowledge or understanding to discern between truth and falsehood, between right and wrong, between shadows and substance, between equity and colourable glosses and pretences, and not to do according to our wills and private affections; and such discretion ought to be limited and bounded with the rules of reason, law, and justice. (5 *Rep.* 100; *Keighley's case*, 10 *Rep.* 140.) And see further, as to this, title "*Justices*," Vol. III., p. 560.

II. *For what it shall be forfeited.*

For what forfeited.

This hath been handled in part as it fell in with the former section; and agreeably to the doctrine there laid down, Mr. *Dalton* says, that he who is bound to the good behaviour ought to demean himself well in his carriage, and in his company, not doing anything which shall be a cause of breach of the peace, or to put the people in fear, dread, or trouble; and so shall be intended of all things which concern the peace, but not in misdoing of other things which touch not the peace. (*Dalt. c.* 122.)

And Mr. *Hawkins* saith, it hath been laid down as a general rule, that whatever will be a good cause to bind a man to his good behaviour will forfeit a recognizance for it; but that this hath since been denied, and indeed seems by no means to be maintainable, because the statute, in ordering persons of evil fame to be bound in this manner, seems, in many places, chiefly to regard the prevention of that mischief which they may justly be suspected to be likely to do; and in that respect requires them to secure the public from that danger which may probably be apprehended from their future behaviour, whether any actual crime can be proved upon them or not; and it would be extremely hard in such cases to make persons forfeit their recognizances, who yet may justly be compellable to give one, as those who keep suspicious company, or those who spend much money idly, without having any visible means of getting it honestly, or those who lie under a general suspicion of being rogues, and the like. (1 *Haw. c.* 61, s. 5.)

However, it seems that such a recognizance shall not only be forfeited for such actual breaches of the peace for which a recognizance for the peace may be forfeited, but also for some others, for which such a recognizance cannot be forfeited: as, for going armed with great numbers to the terror of the people, or speaking words tending to sedition; and also for all such actual misbehaviours which are intended to be prevented by such a recognizance, but not for barely giving cause of suspicion of what, perhaps, may never actually happen. (1 *Haw. c.* 61, s. 6.)

Forms, List of.

INFORMATION before a Justice out of Sessions, to require Surety of the Peace or good Behaviour, (No. 1.)

WARRANT thereon, (No. 2.)

WARRANT for Good Behaviour on 34 Edw. III. c. 1, (No. 3.)

COMMITMENT for want of Sureties, for a limited period, (No. 4.)

COMMITMENT for want of Sureties, to appear at the Sessions, (No. 5.)

RECOGNIZANCE for the Peace or Good Behaviour, (No. 6.)

LIBERATE to Discharge one committed for want of Sureties to keep the Peace, (No. 7.)

SUPERSEDEAS, (No. 8.)

LIBERATE to Discharge one committed for want of Personal Appearance at the Sessions, (No. 9.)

ARTICLES of the Peace exhibited at Sessions, (No. 10.)

ARTICLES of the Peace exhibited in the King's Bench, (No. 11.)

— } *Be it remembered, that on, &c., A. B., of* , *in the said county of* (1.) Information
to wit. { , *[gentleman,] came personally before me, J. P., one of his* before a justice out
majesty's justices of the peace in and for the said county, at, &c., and on his oath of sessions, to re-
informeth me, that C. D., of, &c. [labourer], did, on, &c., at, &c., most violently quire surety of
and maliciously declare and threaten, &c., and did also on, &c. [here state the the peace or good
defendant's threats and acts; see Form, No. 11, post, 918]; and that from the behaviour.
above premises, he, this complainant, is afraid that the said C. D. will do him
*some grievous bodily injury; * and therefore prays that the said C. D. may be*
required to find sufficient sureties to keep the peace [or, "to be of good behaviour,"
as may be required; see Form, post (No. 6), towards him, this complainant. And
this complainant also says, that he doth not make this complaint against, nor
require such sureties from, the said C. D. from any hatred, malice, or ill-will,
but merely for the preservation of his life and person from injury.
Sworn before me, J. P. A. B.

To E. F., Constable of , *in the said county, and all others whom this* (2.) Warrant
may concern. thereon.

Whereas A. B., of , *in the said county [gentleman], hath this day made*
information on oath before me, J. P., one of his majesty's justices of the peace in
and for the said county, at, &c., that C. D., of, &c. [labourer], did, on, &c., at,
*&c. [here set forth the complaint, as in the above Form to the *, in the past tense,*
describing the complainant by his name]; and therefore the said A. B. hath prayed
that the said C. D. may be required to find sufficient sureties to keep the peace
[or, "be of good behaviour," as the case may be] towards him, the said A. B. I do,
therefore, hereby require and command you to apprehend and bring the said
C. D. before me, or some other of his majesty's justices of the peace for the said
county, on, &c., at, &c., to answer the said complaint, and to find sufficient sure-
ties to keep the peace [or, "be of good behaviour"] towards his majesty and all his
liege people, and especially towards the said A. B., for such term as shall be then
enjoined him, and to be further dealt with according to law. Given under my
hand and seal, the day of , *&c.*

J. P. (L. s.)

County of { J. T., Esq., and T. L., Esq., justices of our lord the king, assigned (3.) Warrant for
to keep the peace within the said county, to the sheriff of the said the good beha-
county, to the constable of the hundred of , *in the said county, to the petty* viour, on the 34
constables of the town of , *in the said county, and to all and singular the* Edw. 3, c. 1. (o).
bailiffs, constables, and other officers, of our said lord the king, as well within
liberties as without, in the same county, greeting:

Forasmuch as we are given to understand, by the information, testimony, and

Forms.

complaint of many credible persons, that A. O., of _____, in the county aforesaid [gentleman], and B. O., of the same [yeoman], are not of good name and fame, nor of honest conversation, but evil doers, rioters, barrators, and disturbers of the peace of our said lord the king, so that murder, homicide, strifes, discords, and other grievances and damages, amongst the lieges of our said lord the king, concerning their bodies, are likely to arise thereby; therefore, on the behalf of our said lord the king, we command you, and every of you, that you omit not by reason of any liberty within the county aforesaid, but that you attach, or one of you do attach, the aforesaid A. O. and B. O., so that you have them before us, or others our fellows, justices of our said lord the king, assigned to keep the peace within the county aforesaid, as soon as they can be taken [or, "before the justices of our said lord the king, assigned to keep the peace within the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, at the next general quarter sessions of the peace to be holden in and for the said county"], to find then, before us [or, "the said justices"], sufficient surety and mainprize for their good behaviour towards our said lord the king, and all his people, according to the form of the statute in such case made and provided. And this you shall in nowise omit, on the peril that shall ensue thereon. And have you before us [or, "before the said justices, at the sessions aforesaid"] this precept. Given under our seals, at, &c., the day of _____, &c.

(4.) Commitment
for want of sure-
ties by the justice.

_____ } To E. F., the Constable of _____, in the said county, and also to
the keeper of his majesty's [gaol] for the said county, and others whom
this may concern.

Whereas A. B., of, &c. [here recite the complaint, as in the warrant, ante, No. 2]: and whereas the said C. D. was this day brought and appeared before me, J. P., one of his majesty's justices of the peace in and for the said county, at, &c., to answer the said complaint; and I, the said justice, have ordered and adjudged, and do hereby order and adjudge, that the said C. D. shall enter into his own recognizance in the sum of [100l.], with two sufficient sureties in the sum of [50l.] each, to keep the peace [or, "be of good behaviour," as the case may be] towards his majesty and all his liege people, and particularly towards the said A. B., for the term of [twelve calendar months] now next ensuing. And, insomuch as the said C. D. hath refused and still refuses to enter into such recognizance, and to find such sureties as aforesaid, I do hereby require and command you, the said constable, forthwith to convey the said C. D. to the [common gaol] of the said county, and to deliver him to the keeper thereof, together with this warrant. And I do also require and command you, the said keeper, to receive the said C. D. into your custody in the said [gaol], and him there safely to keep for the space of [twelve calendar months], unless he, in the meantime, enter into such recognizance with such sureties, as aforesaid, to keep the peace in the manner and for the term above mentioned. Herein fail not. Given under my hand and seal, the day of _____, &c.

J. P. (L. S.)

(5.) Commitment
for want of sure-
ties to appear at
the sessions.

_____ } To E. F., the Constable of _____, in the said county, and also to
the keeper of his majesty's [gaol] for the said county, and all others
whom this may concern.

Whereas [here recite the complaint, as in the Form of warrant, ante, No. 2]; and whereas the said C. D., having been this day brought and appeared before me, the said justice [or, J. P., one of his majesty's justices of the peace in and for the said county], to answer the said complaint, and having been required by me to find sufficient sureties, as well for his appearance at the next general quarter sessions of the peace to be held for the said county, to do what shall be then and there enjoined him by the court, as also in the meantime to keep the peace [or, "be of good behaviour," as the case may be] towards his majesty and all his liege people, and especially towards the said A. B., hath refused and neglected, and still refuses and neglects, to find such sureties. I do, therefore, hereby require and command you, the said constable, forthwith to convey the said C. D. to the [common gaol] of the said county, and to deliver him to the keeper thereof, together with this warrant. And I do also require and command you, the said keeper, to receive the said C. D. into your custody, and him there safely to keep until the next general quarter sessions of the peace to be held for the said

Forms.

J. P. (L. S.)

_____ } Be it remembered, that on, &c., A. O., of _____, in the county (6.) Recognizance
 { aforesaid [yeoman], A. S., of the same place [yeoman], and B. S., of _____ for the peace or
 the same place [yeoman], came before me, H. C. [doctor of laws], one of the good behaviour.
 justices of our said lord the king, assigned to keep the peace in and for the said
 county, and acknowledged themselves to owe to our said lord the king, to wit, the
 said A. O. the sum of [20l.], and the said A. S. the sum of [10l.], and the said
 B. S. the sum of [10l.], of good and lawful money of Great Britain, to be re-
 spectively made and levied of their several goods and chattels, lands and tene-
 ments, to the use of our said lord the king, his heirs and successors, if he, the said
 A. O., shall fail in performing the condition underwritten.

Acknowledged before me, H. C.

If the party be bound merely to keep the peace, or be of good behaviour, for a specified time, the condition will be thus: *The condition of this recognizance is such, that if the above bounden A. O. shall keep the peace [or, "be of good behaviour," as the case may be] towards the king, and all his liege people, and especially towards A. I., of _____, in the said county [gentleman], for the term of [twelve calendar months] now next ensuing, then the said recognizance shall be void, or else remain in its force.*

If the party be bound to appear at the sessions, the condition of the recognizance will be thus: *The condition of this recognizance is such, that if the said C. D. shall personally appear at the next general quarter sessions of the peace to be holden for the said county, to do and receive what shall be then and there enjoined him by the court, and, in the meantime, shall keep the peace [or, "be of good behaviour"] towards his majesty and all his liege people, and especially towards the said A. B. Then, &c.*

_____ } To E. F., the keeper of his majesty's [gaol] for the said county, and (7.) Liberate to
 } others whom this may concern. discharge one
 You are hereby commanded to discharge out of your custody the body of A. O., committed for
 of _____, in the said county [labourer], he having this day entered into a want of sureties
 recognizance before me, J. P., one of his majesty's justices of the peace in and to keep the peace.
 for the said county, in the sum of [100l.], with two sureties in [50l.] each, to
 keep the peace, [or, "be of good behaviour," as the case may be] towards his ma-
 jesty, and all his liege people, and especially towards A. B., of, &c. [gentleman],
 for the space of [twelve calendar months] now next ensuing. Given under my
 hand and seal, the _____ day of _____, &c.

J. R., Esq., one of the justices of our lord the king, assigned to (8.) Supersedeas
keep the peace in and for the county aforesaid, to the sheriff, bailiffs,
constables, and others the faithful ministers and subjects of our said
lord the king within the said county, and to every of them, greeting :
Forasmuch as A. O., of , in the said county [yeoman], hath personally
come before me, at , in the said county, and hath found sufficient surety,
that is to say, A. S., of , [yeoman], and B. S., of , [yeoman]; either
of the which hath undertaken for the said A. O., under the pain of [20l.], and
he, the said A. O., hath undertaken for himself, under the pain of [40l.], that he,
the said A. O., shall personally appear at the next general quarter sessions of the
peace to be holden in and for the said county, then and there to do and receive
what shall be enjoined him by the said court ; and, in the meantime, shall well and
truly keep the peace [or, " be of the good behaviour," as the case may be] towards
our said lord the king, and all his liege people, and especially towards A. I., of
, [yeoman]. Therefore, on the behalf of our said lord the king, I do
command you, and every of you, that you utterly forbear and surcease to arrest,
take, imprison, or otherwise by any means for the said cause to molest the said
A. O. ; and if you have, for the said occasion, and for none other, taken and
imprisoned him, the said A. O., that then him you deliver, or cause to be deli-
vered, and set at liberty, without further delay. Given at , aforesaid, in
the county aforesaid, under my seal, this day of , &c.

Surety of the Peace or Good Behaviour.

Forms.

(9.) Liberate to discharge one committed for want of sureties for personal appearance at sessions.

J. D., Esq., one of the justices of our lord the king, assigned to keep the peace in and for the county aforesaid, to the keeper of his majesty's [gaol] at _____, in the said county, greeting :
 Forasmuch as A. O., in the prison of our said lord the king, in your custody now being, at the suit of A. I., of _____, in the said county [yeoman], for the want of his finding sufficient sureties for his personal appearance at the next general quarter sessions of the peace, to be holden in and for the said county, and for his keeping the peace [or, "being of the good behaviour," as the case may be], in the meantime, towards our said lord the king, and all his liege people, and especially towards the said A. I., hath found before me sufficient sureties, to wit, A. S., of _____, [yeoman], and B. S., of _____, [yeoman], either of which hath undertaken for the said A. O., under the pain of [20l.], and he, the said A. O., hath undertaken for himself, under the pain of [40l.], that he, the said A. O., shall and will personally appear at the next general quarter sessions of the peace to be holden in and for the said county, and shall well and truly keep the peace [or, "be of the good behaviour," as the case may be], in the meantime, towards our said lord the king, and all his liege people, and especially towards the said A. I. Therefore, on the behalf of our said lord the king, I do command you, that if the said A. O. do remain in the said [gaol], for the said cause, and for none other, then you forbear to grieve or detain him any longer, but that you deliver him thence, and suffer him to go at large, and that upon the pain that will fall thereon. Given under my seal, at _____, in the said county, the day of _____, &c.

(10.) Articles of the peace exhibited at sessions.

At the quarter [or, "general quarter"] sessions of the peace of our lord the king, holden at [the New Sessions House, on Clerkenwell Green], in and for the county of [Middlesex], [by adjournment], on [Monday], the _____ day of _____, in the _____ year of the reign of our sovereign lord _____, king of Great Britain and Ireland, before W. M., J. P., W. D., E. F., Esqs., and others their fellows, justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of [Middlesex], and also to hear and determine divers felonies, trespasses, and other misdeeds, committed in the same county.

[Middlesex]. Articles of the Peace exhibited by W. P., of _____, in the parish of _____, in the said county of [Middlesex], [cabinet-maker], on behalf of himself [and Hannah, his wife (she, the said Hannah, being now confined through sickness in this exhibitant's dwelling-house, situate as aforesaid)], against J. M., late of _____, in the said county [shoemaker], in order to preserve the lives and persons of himself, this exhibitant, and the said Hannah, his wife, from bodily harm.

[Here state the subject-matter of the complaint and causes of fear, which may be as in form *infra*, *mutatis mutandis*.]

This exhibitant, on his oath, saith, that the said H. P., this exhibitant's said wife, is now so sick and weak, that she cannot be removed from her home to attend this honourable court, to join in the exhibition of this complaint; and that he, this exhibitant, by means of the premises aforesaid, conceives himself and his said wife to be in great bodily danger. And he further saith, that he doth not make this complaint against the said J. M. through any hatred, malice, or ill-will, which he hath or beareth towards the said J. M., but merely for the preservation as well of the life of his said wife as of his own, and also of their persons from bodily harm.

Sworn at the [New Sessions House, on Clerkenwell Green], this
 day of _____, 18 _____.

W. P.

By the Court.

(11.) Articles of the peace exhibited by a wife against her husband, in the King's Bench.

Of Easter Term, in the [seventh] year of the reign of King [William the Fourth].

England. Articles of the Peace exhibited by C. B., wife of A. B., of _____, [gentleman], against the said A. B., her husband, through fear of death, or of receiving some great bodily harm.

[Here state the causes producing the fear; and the mode of stating them may be collected from the following matters:]

First. *This exhibitant, on her oath, saith, that she hath been married to the said A. B. for the space of [six years and upwards]; and that, for the space of [one year and ten months] before the [1st day of November] last past, the said A. B. hath treated this exhibitant with great cruelty and barbarity, and without any provocation whatever from this exhibitant; and, in particular, hath frequently, during the time last aforesaid, struck and threatened to strike this exhibitant, and dragged her about his [dwelling-house].*

Secondly. *This exhibitant, on her oath, saith, that the said A. B., having made a voyage to the [East Indies], returned on or about the [29th day of September, A. D. 1826]; and, soon after his return, commenced or renewed an acquaintance with a woman who was known by the name of E., with whom, as well as with other women, the said A. B. frequently cohabited, as this exhibitant hath great reason to believe; this exhibitant having known the said woman called by the name of E. shut into the said A. B.'s [bed-room], where she hath remained with him several hours. And this exhibitant saith, that the said A. B. compelled this exhibitant to reside in mean lodgings, different from his place of residence; and that, whenever this exhibitant ventured to go to the said A. B.'s [chambers] to expostulate with him on his ill-treatment, he hath beaten or threatened to beat this exhibitant; and this exhibitant saith that, at one time in particular, during the time last aforesaid, the said A. B. did, with a violent blow, knock this exhibitant down in the said [chambers], and that this exhibitant, in consequence of the said blow, lay senseless for a considerable time.*

Thirdly. *This exhibitant, on her oath, saith, that, by means of the cruel treatment of the said A. B., before set forth, and particularly of his having, at divers times within the space of [three months] last past, as this exhibitant hath been informed and believes, threatened to seize, confine, beat, maim, or ill-treat this exhibitant, she, this exhibitant, is put into the utmost fear and danger, and verily believes that the said A. B. will put his said threats into execution, and will do this exhibitant some bodily hurt; and therefore this exhibitant is prevented from going out about her lawful occasions, until she can obtain that protection from the laws of this country which this honourable court has authority to grant. And this exhibitant further saith, that she is now under great fear and apprehension that the said A. B. will take the first opportunity of doing this exhibitant some bodily hurt, unless he is restrained therefrom by this honourable court; and therefore this exhibitant most humbly craves that the said A. B. may be ordered by this honourable court to find sufficient sureties for keeping the king's peace towards this exhibitant.*

Lastly. *This exhibitant saith, that she doth not make this complaint against the said A. B. through any hatred, malice, or ill-will, which she hath or beareth towards him, but merely for the preservation of her life, and also of her person from bodily harm.*

*The above-named C. B. was sworn to the truth
of the above premises on [Saturday] next
after , in the [seventh year of the reign
of King William the Fourth.]*

C. B.

By the Court.

Surgeons. See "Physicians, Surgeons, and Apothecaries," ante.

Surplusage, what is, see "Indictment," Vol. III. p. 411; "Conviction," Vol. I. p. 899.

Surveys, Public or Private, how proved, see "Evidence," Vol. II. p. 48.

Suspicion, How far Party may be arrested on. See "Arrest," Vol. I.

Swans. See "Game," Vol. II. p. 1076.

Swearing.

[19 Geo. II. c. 21; 22 Geo. II. c. 33; 4 Geo. IV. c. 31.]

Punishment in
the spiritual
court.

AS to Oaths, see "**Oaths**," Vol. III.

As to Blasphemy, see "**Blasphemy**," Vol. I.

By the canons of the church, if any offend their brethren by swearing, the churchwardens shall present them; and such notorious offenders shall not be admitted to the holy communion, till they be reformed. (*Can.* 109.)

By the 19 Geo. II. c. 21, s. 1, "if any person or persons shall profanely curse or swear, and be thereof convicted on the oath of any one or more witness or witnesses, before any one justice of the peace for any county, city, riding, division, or liberty, or before the mayor, justice, bailiff, or other chief magistrate of any city or town corporate, or by the confession of the party offending, every person or persons so offending shall forfeit and lose the respective sums hereinafter mentioned; (that is to say)

The penalty of
profane cursing
and swearing.

Every day labourer, common soldier, common sailor, and common seaman, 1*s.*

And every other person under the degree of a gentleman, 2*s.*;

And every person of or above the degree of a gentleman, 5*s.*

"And in case any such person or persons shall, after conviction, offend a second time, every such person shall forfeit and lose double; and, for every other offence after a second conviction, treble the sum first forfeited by any offender, for profane cursing and swearing as aforesaid."

Profane swearers
in the hearing of
any justice, &c.
to be convicted
without other
proof.

Sect. 2. "In case any person or persons shall profanely swear or curse, in the presence and hearing of any justice of the peace for any county, riding, division, or liberty, or in the presence or hearing of any mayor, justice, bailiff, or other chief magistrate of any town corporate, every such justice, mayor, or other chief magistrate as aforesaid, shall and is hereby authorized and required to convict every such offender of such offence (in the form and manner hereinafter set forth) without any other proof whatsoever."

Constables, &c.
to seize persons
profanely swear-
ing, if unknown,

Sect. 3. "In case any person or persons shall profanely swear or curse, in the presence and hearing of any constable, petty constable, tithingman, or other peace-officer, it shall and may be lawful for any and every such constable, petty constable, tithingman, or other peace-officer, and they and each of them are hereby authorized and required (in case any such person shall be unknown to such constable, petty constable, tithingman, or other peace-officer) to seize, secure, and detain such offender or offenders, unknown to him or them as aforesaid; and such offender or offenders forthwith to carry before the next justice of the peace for the county, riding, division, or liberty, or before the mayor, justice, bailiff, or other chief magistrate of the town corporate, wherein such offence was committed; and the said justice, mayor, or other chief magistrate, is hereby authorized and required on the oath of such constable, petty constable, tithingman, or other peace-officer, to convict the offender in manner and form hereinafter directed: and in case any such person so profanely swearing or cursing, in the presence or hearing of any such constable, petty constable, tithingman, or other peace-officer, shall be known to any of them, every such constable, petty constable, tithingman, or other peace-officer, shall and is hereby required speedily to make information before some justice of the peace for the county, riding, division, or liberty, mayor, justice, bailiff, or chief magistrate, of any town corporate as aforesaid, in order that the offender or offenders may be by such justice, mayor, bailiff, or other chief magistrate, convicted thereof and punished for the same, in manner and form as in and by this act is directed."

and if they are
known, informa-
tion to be made.

Justices, &c.
to order offender
to appear, &c.

Sect. 4. "Every such justice of the peace, mayor, or other chief magistrate as aforesaid, shall immediately, upon information given upon oath of any such constable, petty constable, tithingman, or other peace-officer, or of any other person whatsoever, cause the offender or offenders to appear before him; and upon such information being proved as aforesaid, convict such offender or

offenders in such manner as in and by this act is prescribed : and in case such offender or offenders shall not immediately pay down the respective sum so forfeited, or give security to the satisfaction of such justice, mayor, or other chief magistrate, before whom such conviction is made, it shall and may be lawful for such justice, mayor, or other chief magistrate, to commit the offender to the house of correction for the county, riding, division, liberty, city, or town corporate where such offence shall be committed, there to remain, and be kept to hard labour for the space of ten days." 19 Geo. 2, c. 21.

Sect. 5. "In case any common soldier belonging to any regiment in his majesty's service, or any common sailor or common seaman belonging to any ship or vessel, shall be convicted of profane cursing or swearing as aforesaid, and shall not immediately pay down the penalty by him forfeited, or give security for the same as aforesaid, and also the cost of the information, summons, and conviction, as in and by this act is directed ; every such common soldier, common sailor, or common seaman, instead of being committed to the house of correction, as by this act is directed, shall by the said justice, mayor, bailiff, or other head officer, be ordered to be publicly set in the stocks for the space of one hour, for every single offence ; and for any number of offences, whereof he shall be convicted at one and the same time, two hours." Common soldiers, &c. not paying penalty, &c. Set in stocks.

Sect. 6. "If any justice of the peace of any county, riding, division, or liberty, mayor, justice, bailiff, or other chief magistrate of any town corporate, shall wilfully and wittingly omit the performance of his duty, in the execution of this act, he shall forfeit and lose the sum of 5*l.* ; one moiety thereof to the use of the informer, and the other moiety thereof to the use of the poor of the parish wherein such justice, mayor, or other chief magistrate shall reside ; to be recovered by action, suit, bill, or plaint, in any of his majesty's courts of record at Westminster ; wherein no essoin, protection, or wager of law shall be allowed, or more than one imparlance." Justices, not doing their duty, forfeit 5*l.*

Sect. 7. "If any constable, petty constable, tithingman, or other peace-officer, shall wilfully and wittingly omit the performance of his duty in the execution of this act, and be thereof convicted by the oath of one witness, before any justice of the peace for any county, riding, division, or liberty, or before the mayor, justice, bailiff, or other chief magistrate of any town corporate, every such constable, petty constable, tithingman, or other peace-officer so offending, shall forfeit and lose the sum of 40*s.*, to be levied and recovered by distress and sale of the offender's goods and chattels, by virtue of a warrant under the hand and seal of such justice, mayor, or other chief magistrate, and to be disposed of, one moiety thereof to the use of the informer, and the other moiety to the use of the poor of the parish where such offence shall be committed ; and in case such offender shall not have sufficient goods and chattels whereon to levy the said penalty, it shall and may be lawful for such justice, mayor, or other magistrate, to commit such offender to the house of correction for the county, riding, division, liberty, city, or place, there to remain, and be kept to hard labour for the space of one month." Constables not doing their duty, forfeit 40*s.* and for want of distress, to be committed for one month to the house of correction.

Sect. 8. "All and every justice of the peace for any county, riding, division, or liberty, and all and every mayor, justice, bailiff, or other chief magistrate of any town corporate, before whom any person or persons shall be convicted of profane swearing or cursing, shall cause the conviction to be drawn up in the words and form following :—

"*Middlesex* } *Be it remembered, that on the* *day of* *in the* *Form of conviction,*
to wit. *year of his majesty's reign, A. B. was convicted before me,* *,*
one of his majesty's justices of the peace for the county, riding, division, or liberty
aforesaid [or, "before me, , mayor," "justice," "bailiff," "or other chief
magistrate of the city or town of *, within the county of* *," as the*
case shall be], of swearing one or more profane oath or oaths [or, "of cursing
one or more profane curse or curses," as the case shall be]. Given under my
hand and seal, the day and year aforesaid."

"Which said form and conviction shall not be liable to be removed by *certiorari* into his majesty's Court of King's Bench, but shall be deemed and to be wrote on parchment, and

19 Geo. 2, c. 21.
returned to the
next sessions.

Justices, &c. to
put this act in
execution indis-
criminately.

Penalties how to
be disposed of.

Offenders to pay
all charges over
and above the
penalties,

or be committed
to the house of
correction for six
days extraordi-
nary (a).

General issue.

Treble costs.

Proof, &c. to be
made within
eight days.

4 Geo. 4, c. 31.
Fee of 1s. to the
justice's, &c.
clerk.

21 Jac. 1, c. 20,
and 6 & 7 W. 3,
c. 11, repealed.

22 Geo. 2, c. 33.
Navy.

taken to be final to all intents and purposes whatsoever; and the said justice, mayor, bailiff, or other chief magistrate before whom such conviction shall be made, shall cause the same to be fairly wrote over upon parchment, and returned to the next general or quarter sessions of the peace for the county wherein such conviction was made, to be filed by the clerk of the peace, and remain and be kept amongst the records of the said county."

Sect. 9. "All and every justice of the peace for any county, riding, division, or liberty, and every mayor, justice, bailiff, or other chief magistrate of any city or town corporate may, and they are hereby authorized and required to put this in execution against any person or persons within their several jurisdictions, although such justice, mayor, bailiff, or other chief magistrate shall be rated and pay to the relief of the poor of any parish, town, or place, where any offence contrary to the true intent and meaning of this act shall be committed; any law or statute to the contrary in anywise notwithstanding."

Sect. 10. "All and every penalty or penalties inflicted by this act, upon any person or persons, for profane cursing and swearing, shall be disposed of for the benefit of the poor of the parish wherein such offence was committed; and that all charges of the information and conviction of any such offender shall be borne and paid by the party offending, if able, over and above the penalties inflicted by this act, which charges shall be settled and ascertained by the justice of peace, mayor, bailiff, or other chief magistrate before whom such conviction shall be made: and in case such party shall not be able, or shall not immediately pay the said charges and expenses, or give security for the same to the satisfaction of such justice of the peace, mayor, bailiff, or other chief magistrate before whom such information and conviction shall be made, to commit such offender to the house of correction as aforesaid, there to remain and be kept to hard labour for the space of six days, over and above such time for which such offender may be committed in default of payment of the penalties inflicted by this act; and in such case no charges of information and conviction shall be paid by any person whatsoever."

Sect. 11. "If any action or suit shall be commenced or brought against any justice of the peace, constable, or other officer or person whatsoever, for doing or causing to be done any thing in pursuance of this act concerning the said offences, the defendant in that action may plead the general issue, and give the special matter in evidence; and if upon such action verdict be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs."

Sect. 12. "No person shall be prosecuted or troubled for any offence against this statute hereinbefore or hereinafter mentioned, unless the same be proved or prosecuted within eight days next after the offence committed."

Sect. 13, requiring the act to be read four times in the year in all churches and chapels, is repealed by 4 Geo. IV. c. 31.

Sect. 14. "The clerk of the justice, mayor, bailiff, or other chief officer before whom proceedings upon this act shall be had, shall and may receive and take for the information, summons, and conviction of every offender against this act, the sum of 1s., and no more."

Sect. 15. "An act made in the twenty-first year of the reign of King James the First, intituled, 'An Act to prevent and reform profane Cursing and Swearing;' and also an act made in the sixth and seventh years of the reign of King William the Third, intituled, 'An Act for the more effectual suppressing profane Cursing and Swearing,' shall be and are hereby repealed."

By the 22 Geo. II. c. 33, persons belonging to his majesty's ships of war, guilty of profane oaths or curses, shall incur such punishment as a court-martial shall impose.

(a) It should seem the 5 Geo. IV. c. 18, s. 3 (see "**Distress under Justice's Warrant**," Vol. I.) authorizing the party to be discharged on payment of the penalty and costs, is not applicable to a commitment for swearing.

Forms.

County of } The information of A. I., of , in the county aforesaid, (1.) Information
 } [yeoman], made on oath, on, &c., at, &c., before me J. P., for swearing.
 Esq., one of his majesty's justices of the peace in and for the said county; who saith,

That, on, &c., now last past, at, &c., he heard A. O., of , in the said county [labourer], swear one profane oath [or, "curse one profane curse"], in these words, to wit, &c.

County of } To E. F., the Constable of , and all others whom this may (2.) Summons
 } concern. thereon.

Whereas information hath this day been made before me, J. P., Esq., one of his majesty's justices of the peace for the said county, upon the oath of A. I., of , [yeoman], that, on , the day of this present month of , he heard A. O., of , in the said county [labourer], at , in the parish of , in the said county, swear one profane oath [or, "curse one profane curse"]; these are, therefore, to command you to cause the said A. O. forthwith to appear before me, to answer the premises, and to be further dealt with according to law. Given under my hand and seal, at , in the said county, the day of , in the year of .

See form prescribed by the act, ante, 921.

Conviction.

County of } To E. F., the Constable of , in the said county, and to the (3.) Commitment
 } keeper of the [house of correction], at , in the said county, thereon.
 } and all others whom this may concern.

Whereas A. O., of , in the said county [labourer], is and stands convicted this day before me, J. P., one of his majesty's justices of the peace in and for the said county, of swearing [one profane oath], on the day of , at , in the parish of , in the said county, whereby he hath forfeited the sum of [one shilling] to the poor of the said parish of . And whereas the said A. O. hath refused and doth refuse to pay down the said sum of [one shilling], for the use of the poor aforesaid, and also hath refused and doth refuse to give satisfactory security to pay the same; these are, therefore, to require you, the said constable, to convey the said A. O. to the [house of correction], at aforesaid, and deliver him to the keeper thereof, together with this warrant. And I do hereby command you, the said keeper, to receive him the said A. O. into your custody in the said [house of correction], and there to detain and keep him to hard labour for the space of [ten days]; and, for so doing, this shall be your sufficient warrant. Given under my hand and seal, at , in the said county, the day of , in the year of the reign of .

If he also refused to pay the charges, these words may be added: "Satisfactory security for the same. And whereas the said A. O. hath likewise refused and doth refuse to pay the sum of [one shilling], which I have settled and ascertained as and for the charges and proceedings against him touching the premises, and hath refused and doth refuse to give satisfactory security to pay the same: these are, therefore, to require you, &c., for the space of [sixteen] days," &c.

Sweets. See "Exercise," Vol. II.

Tanners. See "Leather," Vol. III.

Taxes, Assessed, &c.

General observations.

IN the preceding parts of this work, the taxes called duties of *Excise and Customs, Land-Tax, Post-Horse Duty, and Stamp Duties*, have already been considered. In the prior editions, as well as in the present, under the above head of *Taxes*, the *other* branches of *revenue* principally denominated *Assessed Taxes* are considered, together with the provisions relative to the *commissioners of the affairs of taxes, and their inferior officers*, and the regulations affecting the assessment, raising, levying, and paying these taxes, and the acts relating to compositions for taxes.

Assessed Taxes consist of the duties on *Windows or lights, on Inhabited Houses, on Servants, Carriages, Horses, Mules, and Dogs, Armorial Bearings, Game Certificates*, and other the duties transferred to the commissioners for the affairs of taxes. The origin of some of these taxes is stated in 1 *Bla. Com.* 324, 325.

As all *justices of peace* duly qualified may act as *commissioners of land-tax* and assessed taxes, 7 & 8 *Geo. IV.* c. 75, s. 1; and 3 & 4 *Wil. IV.* c. 95; and see 52 *Geo. III.* c. 95, rule 31, it is essential that all justices should make themselves well acquainted with every regulation respecting every description of tax, and the regulations respecting them. Indeed, as the principal sources of *revenue*, no subject is more important.

Before we proceed to divide and consider this subject, it may be useful to give, first, a list of the repealed or expired acts; secondly, a list of those acts still in force; and thirdly, a list of those which relate to compositions for taxes:—

I. Assessed Tax Acts repealed by 20 *Geo. II.* c. 3.

I. List of Assessed Tax Acts repealed by 20 Geo. 2, c. 3.

7 & 8 <i>W.</i> III. c. 18.	23 <i>Geo.</i> III. c. 66.
8 & 9 <i>W.</i> III. c. 20, s. 15.	24 <i>Geo.</i> III. st. 2, c. 31.
1 <i>Anne</i> , (st. 1.) c. 13.	———— c. 38.
5 <i>Anne</i> , ——— c. 13.	25 <i>Geo.</i> III. c. 30.
7 <i>Anne</i> , ——— c. 7.	———— c. 43.
8 <i>Anne</i> , ——— c. 4.	———— c. 47. (b)
3 <i>Geo.</i> I. c. 8, s. 17.	———— c. 49.
5 <i>Geo.</i> I. c. 19.	———— c. 70.
6 <i>Geo.</i> I. c. 21, s. 61. (a)	26 <i>Geo.</i> III. c. 9.
20 <i>Geo.</i> II. c. 3.	———— c. 79.
———— c. 42.	29 <i>Geo.</i> III. c. 9.
21 <i>Geo.</i> II. c. 10.	———— c. 49.
26 <i>Geo.</i> II. c. 17.	31 <i>Geo.</i> III. c. 5.
2 <i>Geo.</i> III. c. 8.	32 <i>Geo.</i> III. c. 2.
6 <i>Geo.</i> III. c. 38.	———— c. 3.
7 <i>Geo.</i> III. c. 33.	35 <i>Geo.</i> III. c. 109.
17 <i>Geo.</i> III. c. 39.	36 <i>Geo.</i> III. c. 14.
18 <i>Geo.</i> III. c. 26.	———— c. 15.
19 <i>Geo.</i> III. c. 59.	———— c. 16.
21 <i>Geo.</i> III. c. 31.	———— c. 17.

(a) All the above were repealed by the next statute, 20 *Geo. II.* c. 3, as to duties on houses and windows.

(b) This act transfers the receipt and

management of duties on *carriages and horses* from the commissioners of excise and stamps to those for the affairs of taxes.

36 Geo. III. c. 117.	41 Geo. III. c. 9.
———— c. 124.	———— c. 40.
37 Geo. III. c. 3.	———— c. 62.
———— c. 69.	———— c. 69.
———— c. 106.	———— c. 71.
———— c. 107.	42 Geo. III. c. 34.
———— c. 108.	———— c. 37.
———— c. 134.	———— c. 100. (b)
———— c. 186.	45 Geo. III. c. 13. (c)
38 Geo. III. c. 40.	46 Geo. III. c. 78. (c)
———— c. 41.	———— c. 84. (d)
———— c. 53.	52 Geo. III. c. 147. (d)
———— c. 80.	55 Geo. III. c. 53. (e)
———— c. 93.	11 Geo. IV. & 1 W. IV. c. 35.

*I. List of Assessed
Tax Acts repealed
by 20 Geo. 2, c. 3.*

II. Assessed Tax Acts now in Force.

43 Geo. III. c. 99.	57 Geo. III. c. 25. (k)
———— c. 161. (f)	58 Geo. III. c. 16. (a)
45 Geo. III. c. 5.	———— c. 17. (b)
———— c. 71.	59 Geo. III. c. 13. (b)
48 Geo. III. c. 55. (g)	———— c. 51. (c)
———— c. 141.	———— c. 118.
50 Geo. III. c. 104. (h)	1 Geo. IV. c. 73. (c)
———— c. 105.	1 & 2 Geo. IV. c. 110. (d)
51 Geo. III. c. 72.	———— c. 113. (c)
52 Geo. III. c. 93. (i)	3 Geo. IV. c. 50. (c)
54 Geo. III. c. 141.	———— c. 88. (e)
55 Geo. III. c. 161.	4 Geo. IV. c. 11. (c)
56 Geo. III. c. 66.	———— c. 45. (c)

*II. List of As-
sessed Tax Acts
now in force.*

(b) All the above, and all prior acts thereby repealed, were repealed by 43 Geo. III. c. 161, s. 84, except as to arrears and penalties, and such provisions of the said acts as relate to matters other than the duties.

(c) For granting additional duties on horses used in riding, &c. repealed by 48 Geo. III. c. 55, s. 2.

(d) For granting allowances of duty in respect of children, repealed by 56 Geo. III. c. 66, s. 11.

(e) This is expired.

(f) Duties granted by this act repealed by 48 Geo. III. c. 55, s. 2. Duties granted by 48 Geo. III. c. 55, to be levied under regulations of 43 Geo. III. c. 161.

(g) Schedule repealed by 52 Geo. III. c. 93, s. 3. So much of act as relates to duties on husbandry, horses, &c., repealed by 1 & 2 Geo. IV. c. 110.

(h) *Ibid*

(i) Additional duties granted by this act, consolidated with those granted by 48 Geo. III. c. 55, and 50 Geo. III. c. 104. Powers, &c. of latter acts to

remain in force. Certain duties granted by these acts repealed by 6 Geo. IV. c. 7. So much of act as relates to duties on husbandry horses, &c. repealed by 1 & 2 Geo. IV. c. 110.

(k) Sects. 1 & 5 extended by 6 Geo. IV. c. 7.

(a) So much of the act as relates to duties on husbandry, horses, &c. was repealed by 1 & 2 Geo. IV. c. 110.

(b) Certain duties repealed by 6 Geo. IV. c. 7. So much of 59 Geo. III. c. 13, as relates to duties on husbandry horses, &c. repealed by 1 & 2 Geo. IV. c. 110.

(c) Relates to compositions for taxes.

(d) Repeals duties on husbandry horses, and makes perpetual acts for reducing duties on horses and mules.

(e) Repeals 43 Geo. III. c. 99, s. 48; 48 Geo. III. c. 55, s. 7; 59 Geo. III. c. 51, s. 18; as to poundage to receiver-general, and regulates his appointment. And now see 1 & 2 Wil. IV. c. 18, s. 1, transferring duties of receiver-general to inspector of taxes, except in certain cases.

II. List of Assessed Tax Acts now in force.

5 Geo. IV. c. 44. (c)	2 & 3 W. IV. c. 82 (e)
6 Geo. IV. c. 7. (d)	3 & 4 W. IV. c. 34. (c)
7 Geo. IV. c. 22. (c)	———— c. 39. (f)
10 Geo. IV. c. 21. (c)	4 W. IV. c. 19. (g)
11 Geo. IV. & 1 W. IV. c. 35. (c)	4 & 5 W. IV. c. 54. (c)
1 & 2 W. IV. c. 7. (c)	———— c. 73. (h)
———— c. 18.	5 & 6 W. IV. c. 64. (i)
2 & 3 W. IV. c. 113. (c)	6 & 7 W. IV. c. 28.

III. List of Assessed Tax Acts relating to Compositions, &c.

III. Assessed Tax Acts relating to Compositions for Taxes.

59 Geo. III. c. 51.	10 Geo. IV. c. 21.
1 Geo. IV. c. 73.	11 Geo. IV. & 1 W. IV. c. 35.
1 & 2 Geo. IV. c. 113.	1 & 2 W. IV. c. 7.
3 Geo. IV. c. 50.	2 & 3 W. IV. c. 113.
———— c. 45.	3 & 4 W. IV. c. 34.
4 Geo. IV. c. 11.	4 W. IV. c. 19.
5 Geo. IV. c. 44.	4 & 5 W. IV. c. 54.
7 Geo. IV. c. 22.	5 & 6 W. IV. c. 64.

The above subsisting enactments relative to the assessed taxes may be properly arranged under the following general heads:—

- I. *The Act consolidating the Provisions relating to the Management of the Commissioners for the Affairs of Taxes and other Officers, and other subsequent Acts relating thereto,* p. 926.
- II. *The Acts regulating the Assessments and Collection, &c.* p. 971.
- III. *The Assessed Taxes themselves,* p. 991.
- IV. *Of Compounding for Assessed Taxes,* p. 1090.

I. The Act consolidating the Provisions relating to the Management of the Commissioners for the Affairs of Taxes and other Officers, and other subsequent Acts relating thereto.

[43 Geo. III. c. 99; 45 Geo. III. c. 5, ss. 1 & 2; 45 Geo. III. c. 71, ss. 1 & 2; 48 Geo. III. c. 55, s. 1; 3 Geo. IV. c. 88; 1 & 2 W. IV. c. 18; 4 & 5 W. IV. c. 60; 5 & 6 W. IV. c. 20; 6 & 7 W. IV. c. 28.]

These several provisions may be arranged under the following heads; but it has been considered by the editor to be most expedient to give the statutes

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|--|--|
| (c) Relates to composition for taxes. | c. 93; 4 Geo. IV. c. 11; and 2 & 3 Wil. IV. c. 82. |
| (d) Repeals certain duties under 48 Geo. III. c. 55; 50 Geo. III. c. 104; 52 Geo. III. c. 93; 58 Geo. III. c. 17; 59 Geo. III. c. 13; and extends ss. 1, 5, of 57 Geo. III. c. 25, and s. 4 of 5 Geo. IV. c. 44. | (g) Repeals duties on inhabited houses, payable under 48 Geo. III. c. 55, and 3 & 4 Wil. IV. c. 39. |
| (e) Reduces the duty on carriages with less than four wheels, payable under 52 Geo. III. c. 93, s. D. No. 2. | (h) Repeals certain duties under 48 Geo. III. c. 55; 52 Geo. III. c. 93, and 1 Wil. IV. c. 35. |
| (f) Repeals certain duties payable under 48 Geo. III. c. 55; 52 Geo. III. | (i) Relates to composition for taxes, alters duty payable on race-horses, and exempts male servants of officers (being soldiers) from duty payable under 59 Geo. III. c. 93. |

themselves, and the decisions thereunder, as the subject is arranged in the statutes nearly in the same order, viz.:

1. *The Act relating to Management of Commissioners.*

1. *Qualifications and Powers of Commissioners.*
2. *Meetings of Commissioners—Appointment of Clerks and Assessors, and their Powers and Duties.*
3. *Appointment of Collectors and Sureties, and their Powers and Duties, and Liabilities.*
4. *Appointment of Inspectors and Surveyors, and their Powers and Duties.*
5. *Of Surcharges and Appeals.*
6. *Provisions respecting the Payment of Monies into the Hands of Collectors; and when Parishes are answerable for Defaults; and Proceedings thereon.*
7. *Of Payments and Accounts of Receivers-General, and of Allowances to them and Inspectors, &c.*
8. *General Provisions for enforcing and facilitating the Execution of this Act.*
9. *Recovery of Penalties.*

The 43 Geo. III. c. 99, intituled, "An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same," after reciting, that "whereas it is expedient that certain of the provisions and powers contained in any acts in relation to *the duties on windows or lights, on inhabited houses, on servants, carriages, horses, mules, and dogs, and other the duties lately transferred to the commissioners for the affairs of taxes*, should be reduced into one act of parliament, and amended in the particulars herein mentioned," enacts, "that all the said *duties* now under the management of the commissioners for the affairs of taxes (except the monies arising from the aid granted to his majesty by a land-tax, by an act passed in the thirty-eighth year of the reign of his present majesty), so far as the same relate to England, Wales, and Berwick-upon-Tweed, shall, from and after the time hereinafter mentioned for the commencement of this act, be assessed, raised, levied, and paid, under the regulations thereof."

The principal consolidating act, 43 Geo. 3, c. 99.

All duties now under the management of tax-office (except land-tax) shall be levied under regulations of this act.

Sect. 2. "That this act, with respect to the duties before mentioned, shall commence and take effect from and after the 5th day of April, 1804."

Commencement of act as to such taxes, April 5, 1804;

Sect. 3. "That this act, with respect to the said last-mentioned duties, shall be construed to take effect from and after the times respectively appointed by the act or acts granting such duties, for the commencement of the same."

and as to new duties, from the time of granting them.

The 4 & 5 Wil. IV. c. 60, s. 8, enacts, "That from and after the passing of this act the several persons so as aforesaid appointed commissioners of stamps for the United Kingdom of Great Britain and Ireland and commissioners for the affairs of taxes in Great Britain respectively shall, without any further commission or other authority than this act, be and become one consolidated board of commissioners, and be called 'the Commissioners of Stamps and Taxes,' and it shall be lawful for his majesty, his heirs and successors, from time to time to appoint under the great seal of Great Britain and Ireland such other persons as he or they shall think fit to be commissioners of stamps and taxes, and that from henceforth all the several duties, matters, and things which at the time of the passing of this act are collected by or are under the care and management of the said commissioners of stamps and of the said commissioners for the affairs of taxes respectively shall respectively be collected by and shall be under the care and management of the commissioners of stamps and taxes, in the same manner as such duties, matters, and things respectively have heretofore been collected by or have been under the care and management of the said commissioners of stamps

The 4 & 5 W. 4, c. 60, consolidates the boards of commissioners of stamps and taxes.

The boards of commissioners of stamps and commissioners for the affairs of taxes to be one consolidated board of commissioners of stamps and taxes.

1. *The Act relating to Management of Commissioners.*

4 & 5 Wil. 4, c. 60.

Powers and authorities vested in the commissioners of stamps and commissioners for the affairs of taxes respectively to be exercised by the commissioners of stamps and taxes.

and of the said commissioners for the affairs of taxes respectively : provided always, that as well the said commissioners so to be appointed by his majesty, his heirs and successors, as aforesaid, as the said commissioners by this act constituted commissioners of stamps and taxes, shall respectively be and remain commissioners of stamps and taxes during the pleasure of his majesty, his heirs and successors, and no longer."

Sect. 9 enacts, "That the said commissioners of stamps and taxes, or any three or more of them, shall have, use, and exercise all such powers and authorities as are now given to or vested in or as might be used and exercised by the whole or any number of the said commissioners of stamps or of the said commissioners for the affairs of taxes, under or by virtue of any act or acts in force at or immediately before the passing of this act, and all such powers and authorities shall be and are hereby given to and vested in the commissioners of stamps and taxes, and any three or more of them, as fully and effectually, to all intents and purposes, as if such powers and authorities, and all clauses, regulations, provisions, penalties, and forfeitures in any act or acts relating thereto respectively, were severally repeated and re-enacted in this act, and made part thereof; and all rules, orders, regulations, acts, matters, and things which shall be made or done by the said commissioners of stamps and taxes, or any three or more of them, and which by any act or acts in force at or immediately before the passing of this act are or were required or authorized to be made or done or which might be made or done by the commissioners of stamps or the commissioners for the affairs of taxes, or any three of such commissioners respectively, shall be and be deemed to be as good, valid, and effectual in the law to all intents and purposes as is made or done by the said commissioners of stamps or the said commissioners for the affairs of taxes, or any number of such commissioners respectively, under or in pursuance of any such act or acts as aforesaid; and all persons shall be subject and liable to the same pains and penalties for doing or omitting to do any act, matter, or thing contrary to any rules, orders, or regulations of the said commissioners of stamps and taxes, or any three or more of them, as such persons respectively would have been subject and liable to for doing or omitting to do the same acts, matters, or things contrary to any rules, orders, or regulations of the commissioners of stamps or the commissioners for the affairs of taxes respectively, under or by virtue of any act or acts in force at or immediately before the passing of this act: provided always, that where by any act or acts in force at or immediately before the passing of this act any act, matter, or thing is expressly required or authorized to be done by any particular or prescribed number less than three of the said commissioners of stamps or of the said commissioners for the affairs of taxes, every such act, matter, or thing, being done by such particular or prescribed number of the commissioners of stamps and taxes, shall be good, valid, and effectual to all intents and purposes: and provided also, that all rules, orders, and regulations heretofore made by the said commissioners of stamps or the said commissioners for the affairs of taxes respectively, in force at the time of the passing of this act, and which are not altered or varied by this act, or contrary to any of the provisions thereof, shall respectively remain and continue in full force and effect until the same shall be abrogated, annulled, altered, or varied by the said commissioners of stamps and taxes."

1. QUALIFICATIONS AND POWERS OF COMMISSIONERS.

Commissioners shall be qualified as commissioners of land-tax, under 38 Geo. 3, c. 48. (a).

The 43 Geo. III. c. 99, s. 4, enacts, "That no person shall act as a commissioner in the execution of any act or acts before mentioned, unless such person shall be duly qualified as required by an act, passed in 38 Geo. III. c. 48, intituled, 'An Act to alter and amend so much of an Act, passed in this present Session of Parliament, intituled, An Act for granting an Aid to

(a) All *justices of the peace*, duly qualified, may act as commissioners of land-tax (see 45 Geo. III. c. 48), consequently the *whole* of the subjects of taxes is essential to be known by all *justices of the peace*.

his Majesty by a Land-Tax to be raised in Great Britain, for the Service of the Year, 1798 as relates to the Qualification of Commissioners:’ provided always, that in respect of the cities, liberties, and places hereinafter mentioned, the commissioners acting within the same for the duties before mentioned shall be qualified as by this act is directed: provided also, that no qualification shall be required for any commissioner acting for the said duties before mentioned in any other county in Wales than is required for the commissioners acting in the counties of Wales mentioned in the said last-recited act: provided also, that no person shall presume to act as such commissioner without taking the oaths herein mentioned; and if any person shall, from and after the time appointed for the commencement of the regulations of the said acts before mentioned, or any of them, presume to act as such commissioner, without having taken the oaths hereby prescribed in the manner required by this act, or without being qualified as before mentioned, he shall forfeit the sum of 200*l*.”

Sect. 5. “That no person shall be capable of acting as a commissioner in the execution of any act or acts before mentioned, unless he shall have first taken the oaths appointed by the act 1 Geo. I. c. 13.”

Sect. 6. “That every such commissioner, before he shall execute the office of such commissioner, except in administering the oath hereinafter mentioned to any other of the said commissioners, shall take, and is hereby required to take, the oath expressed in the schedule (marked A.) to this act annexed, which oath any one of the persons so appointed as commissioners is hereby authorized to administer, although the said person administering the same hath not himself previously taken the said oath, and which oath so taken shall be subscribed by the party taking the same, and the names of all the persons so subscribing shall forthwith be transmitted to the office of the commissioners for the affairs of taxes at Somerset House, in the county of Middlesex, by the clerks of the commissioners respectively, wherever such oath shall be administered: provided always, that where any one or more of the persons so appointed commissioners acting for any district, shall have qualified himself or themselves to act, by taking the oaths mentioned in this act, and such one or more of them shall be present at any meeting of such commissioners in the same district, then, and in such case, the said oath shall not be administered to any other commissioner in the same district but by a commissioner or commissioners present at such meeting, who shall have previously taken the said oath.”

Sect. 7. “That no person shall be capable of acting as such commissioner within the city of London, and liberty of St. Martin-le-Grand, nor within the city and liberty of Westminster, nor in or for any other parish or place, any part whereof shall be situate within the bills of mortality, or the parishes of Saint Mary-le-bone, or Saint Pancras, in the county of Middlesex, unless such person shall be possessed of lands, tenements, or personal estate, or of both together, to the amount or value of 5000*l*. at least, after the payment of all his debts, anything herein contained to the contrary notwithstanding; which qualification they shall swear to previous to their acting as aforesaid, according to the form following; that is to say,

“*I, A. B, do swear [or, affirm, as the case may require], that truly and bonâ fide I have such an estate, consisting of [specifying the same], of the clear value of 5000*l*. over and above what will satisfy and discharge all my debts. So help me God.*”

Nor unless he shall be an inhabitant of the district for which he shall act as a commissioner; and if any person shall presume to act as a commissioner in the execution of this act, or any of the powers herein contained, within the city of London and liberty of Saint Martin-le-Grand, or within the city and liberty of Westminster, or in or for any parish or place, any part whereof shall be situate within any other part of the bills of mortality, or in or for

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.
Qualification in Wales.

Penalty on commissioners acting without oath or qualification, 200*l*.

Commissioners shall take oaths under 1 Geo. I, c. 13.

Commissioners, before acting, shall take the oath in schedule (A); (a)

which shall be subscribed, and sent to the tax-office.

Commissioners having taken the oaths, shall administer it to the others.

Qualification of commissioners in London, Westminster, &c., 5000*l*.

Oath.

Commissioners must be inhabitants of the district.

(a) But now a declaration is substituted for an oath, by 5 & 6 Wil. IV. c. 62; and see, *ante*, title “Oath,” and title “Declaration.” See forms, *post*.
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1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

Penalty on acting without being qualified, &c. 200*l*.

Commissioners interested shall have no voice in controversies.

Penalty 50*l*.

Commissioner may act for any part of the county for which he is appointed.

Warrants of service may be executed in any part of a county, riding, &c.

Benchers may act as commissioners for the inns of court; and officers acting in the execution of the land-tax may act as commissioners for Whitehall and St. James's.

Persons appointed commissioners for St. Clements Danes, &c., may act as such for any division within the same.

Two of the commissioners for taxes may indorse remittances by bills, and do any other acts required of the said commissioners.

the parish of Saint Mary-le-Bone, or Saint Pancras, before he shall have taken such oath as herein is directed, or without being qualified as herein is required, or without being an inhabitant in the same district for which he shall act as a commissioner, he shall forfeit for every such offence the sum of 200*l*.; which oath shall be subscribed by the party taking the same, and their names transmitted to the office for taxes."

Sect. 8. "That in case of any controversy arising between such commissioners, in any matter or thing touching the execution of any act before mentioned, in which any commissioner or commissioners shall be interested in his or their own right, or concerned in the controversy in the right of any person for whom they shall act as steward, agent, attorney, or solicitor, the commissioner or commissioners so interested or concerned shall have no voice, but shall withdraw during the debate of such controversy, until it shall have been determined by the rest of the commissioners, on pain that every commissioner who shall so act in any matter or thing in which he or they is or are interested or concerned as aforesaid shall forfeit and pay the sum of 50*l*."

Sect. 34. "That nothing herein contained shall be construed to restrain the said commissioners, or any of them, from acting as commissioners in any part of the county, riding, division, or place, for which they are appointed; and that all warrants and precepts of the said commissioners shall and may be executed by the respective persons to whom the same are directed, in any part of the same county, riding, division, or place, for which they are appointed."

By 45 Geo. III. c. 5, s. 1, "That the said acts shall not be construed to restrain any bencher of any of the inns of court from acting as such commissioner for such inn of court, and the inns belonging thereto, whether of law or equity; nor any of the officers who, by virtue of their offices, have heretofore acted in the execution of the land-tax act, from acting as such commissioner in the liberty of the palaces of Whitehall and Saint James's; and no other qualification shall be required of any such bencher or officer aforesaid than the possession of such places or offices respectively, and who respectively shall and may act therein, although they shall not be resident within the district for which they shall act."

Sect. 2. "That persons residing in either of the parishes of Saint Clements Danes, Saint Mary-le-Strand, or Saint John the Baptist, in the liberty of the Savoy, parts thereof being situate in the county of Middlesex, and other parts in the city and liberty of Westminster, being specially named and appointed commissioners for the said county of Middlesex, or for the said city and liberty of Westminster, and being duly qualified as directed by the said first mentioned act, may act as such commissioners for any or all of the divisions or districts within the said parishes, or any of them; anything in the said first mentioned act contained to the contrary notwithstanding."

By 1 & 2 Wil. IV. c. 18, s. 6, "That all bills or securities drawn for or on account of the taxes, rates, and duties aforesaid, or any of them, payable to the order of the commissioners for the affairs of taxes, and remitted either to the said commissioners or to their office, or to the said receiver-general for the London district, shall and may be indorsed by any two of such commissioners; and all other acts, matters, and things whatsoever by this act, or by any act in force relating to the said taxes, rates, and duties, or any of them, which the commissioners for the affairs of taxes are authorized or required to do, execute, or perform, shall and may be done, executed, and performed by any two of such commissioners, any act or acts of parliament, law, usage, or custom to the contrary thereof notwithstanding."

2. MEETINGS OF COMMISSIONERS, APPOINTMENT OF CLERKS AND ASSESSORS, AND THEIR POWERS AND DUTIES.

First meeting of commissioners shall be annually on or before April 10.

By 43 Geo. III. c. 99, s. 9, "That such commissioners as shall be duly qualified to act in the execution of the acts before mentioned, in order to the speedy execution thereof, shall, in the respective hundreds, laths, wapentakes,

rapes, wards, or other districts, cities, boroughs, cinque-ports, towns, and places, in the several counties, ridings, and divisions, for which they are or shall be appointed to be commissioners, meet together yearly and every year, at the most usual or common place of meeting within such districts, cities, boroughs, cinque-ports, towns, and places respectively, on or before the 10th day of April yearly (a); and any two or more of them shall hold such meeting or any other meeting of commissioners authorized by this act, or the acts before mentioned, and shall be competent to do any act, matter, or thing thereby required to be done by such commissioners; and such commissioners, or so many of them as shall be present at the first meeting to be holden in every year, or the major part of them, having qualified themselves by taking or having taken the oaths in manner herein directed, shall elect one fit and sufficient person to be *their clerk*, and one other fit and sufficient person, if the said commissioners shall deem it necessary, to be *his assistant*, for all the assessments to be made of the several duties with which the said commissioners shall be charged within their respective limits, for one year, and which person so elected shall, by virtue of such election, be the sole clerk to such commissioners for all the said assessments to be made by them for such year, and which clerk shall not be removable from his said office during the year for which he shall be appointed as aforesaid, except for just cause, and at a meeting of the commissioners for that purpose duly summoned by notice in writing, signed by two or more of such commissioners, and left at the usual place of abode of each and every of the commissioners who shall have qualified as aforesaid, in and for such district, city, borough, cinque-port, town, or place, and by the major part of the commissioners present at such meeting; and such commissioners shall also, at such their first meeting, direct their several and joint precept or precepts to such inhabitants of each parish, ward, or place, and such number of them as they in their discretion shall think most convenient, to be *presenters and assessors* for such parish, ward, or place, requiring them to appear before the commissioners at such place and at such time, not exceeding ten days after the date of their precepts, as they shall appoint; and at such their appearances the commissioners, or so many of them as shall meet at such their second meeting, shall appoint such of the said inhabitants as they shall think proper to be the *assessors* for such parish or place of the several duties with which the said commissioners shall be charged as aforesaid, for one year; and at the same time shall openly read, or cause to be read unto them, the several duties for which they are to be appointed assessors, and openly declare the effect of their charge unto them, and how and in what manner they ought and should make their certificate and assessments of the said several duties; and shall then and there appoint another day, within the time hereinafter limited, for the said persons to appear before the said commissioners, and bring in their certificates of assessments of the said several duties in writing under their hands, which shall be verified upon their oaths or solemn affirmations, and not otherwise, which said assessors are hereby strictly enjoined and required, with all care and diligence, to charge and assess themselves, and all other persons chargeable with the said duties, so given to them in charge, and to make their assessments according to the provisions of the laws then in force, upon pain of forfeiture of any sum not exceeding 20*l.*, nor less than 5*l.*; and at the time and place so as aforesaid prefixed for their appearance, such assessors shall return the names of two or more able and sufficient persons, within the bounds or limits of those parishes or places for which they shall be assessors respectively, to the said commissioners, to be by them appointed collectors of the several duties to be raised and assessed by them as such commissioners."

And see sect. 17, *post*, 935; and sect. 32, *post*, 939.

Sect. 10. "That every person to be appointed such assessor, shall, before he shall take upon him the execution of the said employment, take the oaths mentioned and required to be taken by an act, made in the parliament held

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

Two commissioners sufficient to act.

Election of clerk and assistants;

To remain for one year, removable only for just cause, and at a special meeting.

Commissioners shall issue precepts, and at the second meeting appoint and instruct assessors; and see 48 Geo. 3 c. 141, s. 1.

Assessors shall bring in assessments on oath; and shall charge all persons liable (penalty 20*l.* to 5*l.*), and return names of persons to be collectors.

Assessors shall take oaths, &c., under 1 W. & M. sess. 1, c. 8, or c. 18.

(a) *Sed vide* 43 Geo. III. c. 141. No. 1, Rule 1, *post*.

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

But now only a declaration, 1 & 2 W. 4, c. 62; see ante, title Oath.

* *Sic in act.*

Commissioners may administer oaths under this act.

Before acting, assessors shall also take oath in schedule (B.)

But a declaration is now substituted for an oath, 5 & 6 W. 4, c. 62, see title Oath.

Penalty, 50*l.*

Assessors shall annually deliver assessments on or before June 5.

Commissioners shall sign the assessment, and three duplicates thereof, and deliver one to the assessors, with warrants for collecting the same; and another to the surveyor.

Collectors to be appointed.

Collectors shall demand duties within ten days after due, and give acquittances.

in the first year of the reign of King William and Queen Mary, intituled, 'An Act for abrogating the Oaths of Allegiance and Supremacy, and appointing other Oaths;' or, being one of the people called Quakers, may make and subscribe the declaration of fidelity prescribed by an act, made in the first year of the reign of King William and Queen Mary, intituled 'An Act for exempting their Majesty's * Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws;' which oaths or affirmations any one or more of the commissioners by whom such assessors shall be appointed, who shall themselves have taken the oaths required by this act to be taken by commissioners, have hereby power, and are hereby required to administer, as also all and every such other oaths or affirmations, as are by this act, or any act or acts relating to duties to be assessed under the regulations of this act, required or allowed to be taken before such commissioners, by any officer or person whatever, in any matter or thing touching the execution of this act, or any act or acts granting the said duties as aforesaid."

Sect. 11. "That every person to be appointed such assessor, shall, and he is hereby required also to take the *oath*, or, being one of the people called Quakers, to make and subscribe the solemn affirmation, before the commissioners for executing this act, in the form set forth in the schedule to this act annexed (marked B.); and if any person, to be appointed assessor as aforesaid, shall presume to act in the office or employment of an assessor, before he shall have taken the said oath or affirmation (as the case shall require), he shall forfeit and pay, for every such offence, the sum of 50*l.*"

Sect. 12. "That in all cases the assessors so to be appointed as aforesaid, shall, from time to time, make and deliver in writing their certificates of assessments of all the duties given to them in charge as aforesaid, unto the respective commissioners, or any two or more of them, on or before the fifth day of June yearly, or as soon after as conveniently can be done; and the commissioners to whom such assessments shall be so delivered, or any two or more of them, shall forthwith set their hands to the said respective assessments, testifying their allowance of the same; and the said commissioners, or any two or more of them, are hereby required to sign and seal three duplicates of the said assessments, to be prepared by their clerk, and forthwith to nominate and appoint two of the persons named or presented in each of such assessments to be *collectors*, or any other two such persons as such commissioners are hereby authorized to appoint, for the respective divisions and places for which collectors shall be so presented (*a*), and to deliver, or cause to be delivered, one of the said *duplicates* of such assessments, so by the said commissioners allowed, *together with warrants under the hands and seals of two or more of the said commissioners for collecting the same, unto the respective persons by them nominated to be collectors*; and one other of the said duplicates to be kept by such clerk for the use of the said commissioners: and the said collectors are hereby enjoined and required to make demand of the several sums contained in such duplicates, from the parties charged therewith, or at the places of their last abode, or on the premises charged with the assessment, as the case may require, *within ten days after the said duties shall respectively become payable, next after such assessments shall have been delivered to them*; and, upon payment thereof, to give *acquittances under their hands* (without taking anything for such acquittances, the stamp duty for the same excepted) (*b*), unto the several persons who shall

(*a*) The insertion of the name of a person as collector of the assessed taxes, in the warrants of the commissioners, is not a sufficient appointment to that office. (*R. v. Radley, Forrest, 150.*)

(*b*) A collector of taxes exacting a duty, in respect of which there had been no charge at all in the assessment upon the person from whom the payment was

exact, is not liable to the penalties under the 43 Geo. III. c. 99, s. 12, though guilty of a fraud at common law. (*Lister q. t. v. Priestley, Wightw. 405.*)

The 23 Geo. III. c. 90, s. 4, for paving and lighting the parish of St. Martin, which prohibits, under a penalty, any person, during the time *he shall be col-*

pay the same; and that such acquittances shall be full and perfect discharges to every such person who shall pay the same, against his majesty, his heirs and successors." 1. *The Act relating to Management of Commissioners.*

See sect. 12, as to the appointment of collectors. And see further, sections 30, 31, 18, 16, 46, 47, *post*; and 45 Geo. III. c. 71, s. 2, *post*; and 48 Geo. III. c. 55, s. 7, *post*. 43 Geo. 3, c. 99.

3. APPOINTMENT OF COLLECTORS, THEIR BOND, THEIR POWERS, AND DUTIES.

43 Geo. III. c. 99, s. 12, directs the commissioners, collectors, &c.; see sect. 12, *ante*, 932.

Sect. 13 enacts, that the collectors so presented to the said commissioners as before directed to be collectors, shall, if required so to do, *give good and sufficient security* to any two or more of such commissioners equal to the amount of the whole duty, and sum and sums of money assessed in, and to be collected in each district or place as aforesaid, by such collectors respectively, for their duly paying such monies assessed as aforesaid, as shall come to their hands, and for their duly demanding the sums assessed of the respective persons from whom the same are payable; and in case of nonpayment thereof, their duly enforcing the powers of this act against such who make default; which security the said commissioners, or any two or more of them, are hereby authorized and empowered to take, *by a joint and several bond, with two sureties at the least (b)*, to and in the names of any two or more of such commis-

Collectors shall give certain security. (a)

lector of any tax, or hold any office or profit, or be interested in any contract or work to be done in the execution of that act, from acting as a committee-man under the act, does not extend to a collector of the assessed taxes. (*Lee v. Birreld*, 1 M. & Sel. 482.)

In a *qui tam* action against a collector of taxes, it is not necessary to give in evidence his warrant; proof that he has acted as collector is sufficient. (*Lister q. t. v. Priestley*, Wightw. 67.)

(a) 5 & 6 Wil. IV. c. 64, s. 12, exempts bonds of collectors under that act from stamp duties.

The 6 & 7 Wil. IV. c. 28, provides that persons required to give security to different departments of the revenue, including the commissioners of taxes, may do so by a transfer of stock or deposit of exchequer bills, instead of executing a bond; and other sections relate to the proceedings to enforce such securities.

By 48 Geo. III. c. 55, every collector is to have 3d. in the pound for money paid by him in due time, except duties in schedule L., &c.

(b) But a bond with one surety only is valid. (See *Peppin v. Cooper*, 2 B. & A. 431.) In the same case, it was held, that the due collection of the rates for one year was a compliance with the condition of the bond, under the particular terms of such bond. And although it appeared, from the condition of the bond, that H. A. and G. P. were both appointed collectors, it was held that such bond, being for the due collection by

H. A. only, might be put in suit against the surety, without first selling the goods of G. P.

A joint collector of taxes is liable for any deficiency in the collection for the year, in the amount received by his coadjutor, although he has not himself collected *during the time, and although his appointment may not have been quite formal*, if he has in any manner acknowledged his appointment, or acted or received a share of the poundage at any time. And the court will set *insuper* on him, although a re-assessment has been made on the parish, and the amount of the deficiency collected, and paid over to the receiver-general. And if he should have procured a rule to be made absolute for discharging a former *insuper*, and for the restoration of the money levied under it by *distringas*, *without having served the order nisi on the parish*, the court discharging such a rule, will do so, *with costs*. In the matter of *insupers* set upon *John Bromley and William Baylies, joint collectors of taxes for the parish of Welford*, 5 Price, 5.

See, also, *In re Moorly*, 5 Price, 5.

By 43 Geo. III. c. 99, the bond given to the commissioners by a collector of taxes is to be conditioned for demanding the taxes, enforcing the provisions of the act, and paying the sums collected to the receiver-general. The defendant was sued on a bond which contained those conditions, and also a condition for accounting and paying to the commissioners: and it was held, that this latter condition might be rejected as surplusage, and did not

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

* *Sic* in act.

Churchwardens, &c., or inhabitants of parishes, may require security to be taken from collectors, and name persons willing to give such security.

sioners, in such penal sum as aforesaid, and with a condition thereto to the effect before mentioned; and on failure of the persons so first named or appointed to be collectors giving such security, if required, the said commissioners, or any two or more * of them, shall be at liberty and are hereby authorized to appoint any other sufficient persons, who can give such security as aforesaid, residing within the limit of the same district or place, to be collectors of the said duties respectively; and every such bond given by way of such security, as aforesaid, shall be prosecuted by such commissioners on any failure or default of the said collector or collectors: provided always, *that no such bond shall be put in suit against any surety or sureties for any deficiency other than what shall remain unsatisfied after sale of the lands, tenements, goods and chattels of such collector or collectors, in pursuance and by virtue of the directions and powers given to the respective commissioners by this act: provided also, that such bond shall not be subject to any stamp duty whatever: provided always, that if no persons can be found within the limits of such districts or places respectively, who are willing or able to give such security, then and in such case the persons who were first presented to the respective commissioners, as before directed, shall be collectors of the monies assessed as aforesaid, within the limits of such districts or places respectively.*"

Sect. 14. "That if any two or more of the inhabitants of the district or place for which a collector or collectors may be named as aforesaid, being respectively charged to any of the said duties to be assessed under the regulations of this act, or the churchwardens or overseers, or guardians of the poor of any description, or any two or more of them, or the select vestry, or any seven or more of them, where a select vestry shall be authorized to act for any parish or place, shall require security to be taken of the collector or collectors to be appointed for the parish or place on behalf of which such application shall be made, and shall name a fit and proper person or persons

avoid the bond. (*Collins and others v. Gwynne*, 7 Bingh. 423; 9 Bing. 544; 5 Moore & Payne, 276.) And it was held, that in an action against the surety, it is a bad plea that the commissioners and receiver-general had not taken the steps to enforce payment from the collector, as directed by the above act. (*Wilks v. Keely*, 1 Crompt. & Mees. 249.)

Collins & others v. Gwynne, 7 Bing. 544; 2 Moore & Scott, 640; 5 Moore & Payne, 276. Such a bond need not be taken to his majesty and his successors. The collector in default on such bond is a competent witness against his surety. The sale of the collector's lands and goods is not a condition precedent to putting such bond in suit. It is a breach of the condition of payment to pay money collected for a given year to the account of a different year. It need not be stamped, although not taken in the precise amount required by the statute. See the cause and other points, *Gwynne v. Burnell & others*, 2 Bing. N. S. 7; 9 Bing. 544.

It is no objection that the surety's bond is conditioned for payment by the collector to the receiver-general and to the commissioners, or that it is conditioned for payment at the times by the acts appointed, though no times in fact are

appointed by the acts. (*Gwynne v. Burnell*, 2 Bingh. N. S. 7.)

It was held, if there be two collectors of taxes appointed under the 43 Geo. III. c. 99, s. 13, for a single parish, by the commissioners, one for one division of the parish, called the upper parish, and one for another, called the lower parish, and they accordingly collect the taxes separately from the several inhabitants of their respective divisions: in case of a deficiency in the amount of the taxes collected, through the misconduct of either, the whole parish must be re-assessed, and not the particular district, the collector of which has misapplied the money, and from the collection of whose taxes the deficiency arises, although the taxes of the other division have been collected, and paid over to the receiver-general. (*Ex-parte Heullan*, 7 Price, 594.) But in *Barrs v. Digby*, 1 New Rep. 281, it was held, that where a constablewick consisted of several hamlets, and two collectors of the duties on houses, &c., were appointed for each hamlet, if the collector or collectors of any one hamlet failed in duly paying over the money collected, the particular hamlet only where the collector or collectors have failed is liable to a re-assessment, under 20 Geo. II. c. 3, and not the whole constablewick.

to be a collector or collectors, who respectively are willing to give such security, it shall not be lawful for such commissioners to appoint collectors for such duties, or any of them, until such security be given; and if the person or persons returned to the said commissioners, according to this act, to be a collector or collectors, shall not have given, or shall not give such security, then it shall be lawful for such commissioners to appoint such persons, and no others, who shall have been named to them by the persons respectively before mentioned, as fit and proper persons to be collectors, and who will give such security as shall be required."

Sect. 15. "That within the bills of mortality, the parishes of St. Mary-le-Bone, and St. Pancras, in the county of Middlesex, the appointment of the collectors of such duties as aforesaid shall belong wholly to such of the commissioners for executing this act, who shall reside in the wards or parishes for which such collectors respectively are to be appointed, in case there shall be two or more commissioners there resident, and no other commissioner shall in such case interfere; and it shall be lawful for such commissioners residing within the respective wards or parishes aforesaid, to appoint two or more persons to be collectors, who shall have given such security as aforesaid, whether such persons shall have been presented by the assessors as aforesaid, or named by the inhabitants, or churchwardens and overseers, or guardians of the poor, or any two or more of them, or any seven or more of the vestry, where a select vestry shall be appointed as aforesaid, and who shall be thought by such commissioners to be of ability to execute the office of collector; and that in default of presenting or naming such persons who shall be willing to give such security, then the said commissioners residing as aforesaid shall name such persons as they shall think of ability to execute the said office: provided always, that where two or more commissioners shall not be resident in any such ward or parish as aforesaid, for which collectors are to be appointed, then a commissioner or commissioners residing in any adjacent ward or parish in the same county or city may appoint or concur with a commissioner so residing, in the appointment of such collectors; and every person appointed a collector in pursuance of this act, shall also, by virtue of such appointment, act as an assessor for the same parish, ward, or place."

Sect. 16. "That if any assessor or collector to be appointed as aforesaid, shall wilfully neglect or refuse to take upon himself the office of an assessor or collector, to which he shall be appointed, or shall wilfully neglect or refuse to perform his duty in the due and speedy execution of this act, or of any act or acts granting duties to be assessed under the regulations of this act, for which he shall be appointed an assessor or collector, such commissioners, or any two or more of them, may and shall, by virtue of this act, impose on such person or persons so refusing or neglecting, for every such offence, a fine not exceeding 20*l.*: provided that no person inhabiting any city, borough, or town corporate, shall be compelled to be an assessor or collector for any part of such duties, in any place or places out of the limits of the city, borough, or town corporate, in which he shall so inhabit."

Sect. 17. "That in all privileged and other places being extra-parochial, and not within the constablewicks or precincts of the respective assessors to be appointed as aforesaid, and in all parishes and places where two able and sufficient inhabitants cannot be found, the said commissioners, or any two or more of them, shall and they are hereby required to nominate and appoint two fit persons, living in or near the said privileged or other places as aforesaid, to be assessors for the said places, and to make and return their said assessments in like manner as by this act is directed, in any parish or place, and also in like manner and in the like cases to appoint one or more collector or collectors, who are hereby required to collect and pay the sums given to them in charge, according to the rules prescribed by this act, for collecting and paying the sums of money assessed in any parish or place."

And see *post*, 939, sects. 32 and 33.

Sect. 18. "That in case such commissioners shall neglect to appoint assessors, as directed by this act, or in case the assessors by them appointed shall neglect to perform what shall be lawfully required of them, that then

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43 Geo. 3, c. 99.

In which case no collectors shall be appointed until security be given.

Within the bills of mortality, St. Mary-le-Bone, and Pancras, the appointment of collectors to belong to the resident commissioners.

Where two or more commissioners shall not be resident, the commissioners of the adjacent parish, &c. may appoint or concur in the appointment of collectors.

Collectors shall also act as assessors.

Assessors or collectors refusing to take the office, or neglecting their duty, may be fined by commissioners, not exceeding 20*l.* Inhabitants of cities, boroughs, &c. not compelled to be assessors or collectors out of the limits of such places.

In privileged and extra-parochial places, and where two sufficient inhabitants cannot be found, the commissioners to appoint assessors, and collectors in like manner.

If assessors neglect their duty, surveyors may perform the same.

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99. Officers executing this act, or other acts herein mentioned, not liable to any other penalties than such as are contained therein.

and in every such case it shall be lawful to and for the surveyor or surveyors appointed or to be appointed as herein mentioned, to do and perform such and the like services as ought to be done by such assessors, until such assessors shall be appointed, and shall act with effect."

Sect. 19. "That no commissioner, assessor, or collector, who shall be employed in the execution of any such act or acts herein mentioned, or of this act, shall be liable, for or by reason of such execution, to any penalty or penalties, other than such as by this act, or the said act or acts, are or may be inflicted."

See further, sections 27, 32, 33 to 47, *post*, 938, &c.

See, further, as to *Collectors' Bond*, 3 Geo. IV. c. 88, *post*; and 48 Geo. III. c. 141, *post*. (*Gwynne v. Burnell and Others*, 2 Bing. N. C. 7.)

With analogy to a decision on land-tax act, in *Rex v. Clark and Another*, 3 Adol. & El. 287; 4 Nev. & Man. 671, S. C., a collector of assessed taxes may take and keep a constable with him, if he reasonably expect forcible resistance of payment, but not otherwise.

4. INSPECTORS AND SURVEYORS, AND THEIR POWERS AND DUTIES, AND OF RECEIVERS-GENERAL.

Inspectors and surveyors acting in execution of acts now in force, to be inspectors and surveyors under this act.

His majesty or the treasury may from time to time appoint officers for the survey and inspection of duties under commissioners of taxes.

Surveyors certify surcharges twice in the year.

Notice thereof to be given to the party surcharged.

Surcharges omitted the first half-year, may be made for the whole year.

Surveyor guilty of vexatious or corrupt practices in his office to forfeit 100*l.*, and on conviction be dismissed.

43 Geo. III. c. 99, s. 20. "That the several persons who, as *inspectors or surveyors*, are or may be authorized to act in the execution of any act or acts in force at the time of passing this act, shall also be the inspectors and surveyors to act in the execution of this act, and of the said act or acts for granting duties to be assessed under the regulations of this act, whether such persons be appointed by the name of inspectors, expectant inspectors, or surveyors, either for any particular district, or for vacant districts, or otherwise, by whatever name they shall have been or shall be appointed; and it shall be lawful to and for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time, to constitute and appoint such person or persons as his majesty, his heirs and successors, or the said commissioners of the treasury, or the high treasurer, for the time being, shall think proper, to be the officers for the survey and inspection of the duties under the management of the commissioners for the affairs of taxes, within that part of Great Britain as aforesaid, and for doing and executing all things belonging to the office of inspector or surveyor, according to the powers vested in them by this act, or by any other act or acts for granting the said duties to be assessed under the regulations of this act, or any of them."

Sect. 21. "That every such surveyor or surveyors, inspector or inspectors, shall [twice in every year, to wit, between the first day of July and the tenth day of August following, and between the first day of December and the tenth day of January following, yearly, and at no other time (a).] certify in writing to two or more of the said commissioners all such surcharges as they may lawfully make, and shall give or cause to be given to every person so surcharged, or leave or cause to be left at his or her last or usual place of abode in the district where such surcharge shall be made, notice in writing of such surcharge, and of the amount for which he or she shall have been charged by virtue of such certificate."

Sect. 22. "That if any surveyor or surveyors, inspector or inspectors, shall omit to make a surcharge on or before the first day of August in any year, it shall be lawful for the said surveyor or surveyors, inspector or inspectors, to make such surcharge or surcharges on or before the first day of January following, for the whole year."

Sect. 23. "That if any such surveyor or inspector shall knowingly or wilfully, through favour, underrate or omit to charge any person or persons, or shall be guilty of any corrupt, vexatious, and illegal practices in the

(a) But now, by 48 Geo. III. c. 141, 15th December in each year of assessment. No. IV. Rule 1, *post*, 'on or before the ment.'

execution of his office, such surveyor or inspector shall, for every such offence, forfeit the sum of 100*l.*, and on conviction shall be discharged from his said employment."

By 1 & 2 Wil. IV. c. 18, s. 1, duties of *receiver-general* of taxes transferred to inspectors of taxes after 10th October, 1831, except in certain cases. See *post, note.*

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

5. OF SURCHARGES AND APPEALS, &c. (a).

By 43 Geo. III. c. 99, s. 24, "That if any person or persons shall think himself, herself, or themselves respectively overcharged or overrated by any assessment or surcharge to be made by virtue or in pursuance of any act or acts before mentioned, it shall be lawful for him, her, or them respectively, to appeal to the commissioners for putting in execution the said act or acts in relation to such assessment, on giving at the least ten days' notice thereof to the said surveyor or inspector, or to one or more of the assessors of the place wherein such assessment or surcharge shall be made, of such intention to appeal; and the said commissioners, or any two or more of them, shall and they are hereby required to hear and determine all such appeals, except where it shall appear to the said commissioners that the person appealing shall have omitted to give such notice thereof to the proper officer aforesaid, in which case it shall be lawful for the said commissioners, and they are hereby required, to dismiss the appeal, and to confirm the assessment or surcharge appealed against."

Sect. 25. "That no assessment which shall be delivered to such commissioners, or any two or more of them, by any such assessor or assessors, shall be altered by them, or any of them, before the time for hearing and determining appeals, and then only upon a surcharge or surcharges not appealed against, and according to such surcharge or surcharges, or upon the commissioners hearing the matter of appeal particularly relating thereto, upon a general appeal-day duly appointed, save and except in such cases only where such commissioners are specially authorized to alter or rectify any such assessment by the act or acts before mentioned; and if any clerk to such commissioners, or any other person or persons, shall alter, or cause or procure or suffer to be altered, any assessment, after the same shall have been allowed by such commissioners, except as aforesaid, or in cases of appeal, and by order of the said commissioners, or any two or more of them, made after appeal as aforesaid, every such clerk or other person shall forfeit and pay the sum of 50*l.*"

Sect. 26. "That the said commissioners, or any of them, shall not, upon the hearing any such appeal, make an abatement or defalcation in the charge made upon any person by assessment, or by the surcharge of any assessor or assessors, surveyor or surveyors, inspector or inspectors, as aforesaid, but the charge or surcharge shall stand good and remain part of the annual assessment, unless it shall, upon the hearing of such appeal, appear to the commissioners then present, or the major part of them, by examination of the appellant upon oath or affirmation, or by other lawful evidence to be produced by him or her, that such person is overrated in or by any such assessment or surcharge, and unless the appellant shall produce before the said commissioners a true, perfect, and complete list, account, declaration, or

Persons overcharged may appeal to the commissioners (b) on giving ten days' notice to the surveyor or assessor. (c).

Commissioners to hear appeals, unless notice has not been given, in which case the assessment or surcharges must be confirmed.

Assessments not to be altered before the time for hearing appeals, except in cases authorized by the act or recited acts.

Clerks or other persons altering the assessments improperly to forfeit 50*l.*

Commissioners, on hearing appeals, not to make abatement unless the party is overrated, and produces a list of particulars as required by the acts verified on oath.

(a) An appeal against a conviction on 24 Geo. III. c. 21, for not entering horses, &c., must be to the quarter sessions next after the conviction, and not after the execution. (*Prosser v. Hyde*, 1 Term R. 414.)

(b) The Court of Exchequer will not, upon motion, enter into any question of rateability to the assessed taxes. (*R. v. Navy (Commissioners)*, 3 Anst. 858.)

(c) By the 48 Geo. III. c. 141, No. III., Rule 6, all appeals against the first assessment in every year shall be heard and determined between the 20th of August and 10th of September following. By the same act, No. IV., Rule 2, all appeals against surcharges shall be heard and determined between the 20th of January and 20th February following.

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Surveyor and inspector may attend in support of the assessment or surcharge, and produce evidence if they think proper, &c.

If commissioners shall find upon appeal that the person is not fully assessed or surcharged, they may charge the amount omitted.

No barrister or solicitor allowed to plead before commissioners.

Commissioners to give notice to collectors of times and places for hearing appeals.

Collectors within ten days to cause public notice to be given thereof in church,

and fix notice in writing on church doors.

Appeals, of which notice is given, to be heard and determined within certain periods (a).

Determination of the commissioners on appeals to be final, and neither the determination nor the assessment made thereupon can be altered at any subsequent meeting, except where cases are required for the judges' opinion.

return, as shall or may be required by the act or acts before mentioned, and verify the same upon his or her oath or affirmation, and such surveyor or inspector and assessor may then and there attend to give his or their reasons in support of the said assessment or surcharge, and may, if he or they think proper, produce any lawful evidence in support of the same; and such surveyor, inspector, and assessor, shall have full power and free liberty to be present during all the time of hearing such respective appeals, and of the said commissioners determining the same: provided always, if upon such appeal it shall appear to the said commissioners that the persons so assessed or surcharged is or ought to be charged to any amount beyond the amount contained in such assessment or surcharge, it shall be lawful for the said commissioners to charge such person to the matter or thing, or amount of the sum omitted, in like manner and at the like rate as they might have done, if a full, true, and perfect assessment had been made in the first instance: provided also, that no barrister, solicitor, or attorney, or any person practising the law, shall be allowed to plead before the said commissioners on such appeal for the appellant or officers, either *viva voce* or by writing."

Sect. 27. "That such commissioners, or any two or more of them, shall and they are hereby required to give such collectors as aforesaid notice at what time or times, within the periods herein limited, and at what place or places, the appeals of any person or persons who shall think themselves aggrieved as aforesaid may be heard and determined; and every such collector is also hereby required, within ten days after such notice from the said commissioners, to cause public notice to be given in every parish church or chapel of ease belonging to any such parish within his district or division, immediately after divine service on the Lord's Day (if divine service shall be performed in the said parish within that time), or otherwise in the church of the next adjoining parish, of the time and place so appointed by such commissioners for hearing and determining appeals as aforesaid, and shall also cause the like notice to be fixed in writing upon the door of each of the said respective parish churches or chapels of ease, that all persons who shall think themselves aggrieved as aforesaid may know when and where to make their appeal to the said commissioners."

Sect. 28. "That all such appeals as shall be made to such commissioners, and of which notice shall have been given to the assessor, surveyor, or inspector, as aforesaid, between the first day of July and the twentieth day of August, yearly, shall be heard and determined by the said commissioners upon such days as shall by them be appointed for the hearing of such appeals, between the twentieth day of August and the twentieth day of September following; and that all such other appeals as shall be made to the said commissioners, and of which like notice shall have been given between the first day of December and the twentieth day of January following, yearly, shall be heard and determined by such commissioners upon such other days as shall be appointed by them for the hearing thereof, between the twentieth day of January and the tenth day of February following, yearly; and no appeal shall be allowed, heard, or determined, which shall not be made at the times and in manner before directed."

Sect. 29. "That all such appeals once heard and determined by the said commissioners, or any two or more of them, or the major part of them present on the day or days by them appointed for hearing of appeals, shall be final; and neither the determination of the commissioners, nor the assessment then and there made thereupon, shall be altered on any pretence whatever at any subsequent meeting, or at any other time or place, except always in such cases where the opinion of the judges shall be required according to the provisions of any act or acts concerning the same" (b).

(a) Virtually repealed by 48 Geo. III. c. 141, *post*.

(b) The commissioners were ordered by the Court of Exchequer to state and sign a case for the appellants, for the

opinion of a judge, where a question arose respecting certain increase of duty made by a surveyor on the appellants. *In re Yarmouth (Commissioners)*, 9 Price, 149.)

Sect. 30. "And whereas it may happen that the assessments and duplicates of the said duties may not be signed and allowed in due time, to the prejudice of the said revenue, for want of a sufficient number of commissioners acting or attending where and when such assessments or duplicates ought to be allowed; be it further enacted, that in all cases it shall be lawful for the said commissioners appointed for putting any act or acts relating to the said duties in execution, living in any parish or place within the same county, riding, or division, and they are hereby empowered and required, to allow and sign such assessments or duplicates which are or shall be wanting for any such parishes or places as aforesaid."

Sect. 31. "That if at any time there shall not have been any meeting or meetings of two or more of the said commissioners, and a due execution of any of the powers created by this act, or the act or acts before mentioned, within or at the time or times, or according to the manner or circumstances directed or prescribed in and by this act, or the said act or acts, it shall be lawful to and for any two or more of the persons appointed commissioners, and they are hereby required, in all and every the respective counties, ridings, cities, boroughs, cinque-ports, and towns respectively, in that part of Great Britain as aforesaid, wherein such default shall have happened, to meet and execute the said powers at any other time or times, anything herein contained to the contrary thereof notwithstanding; and they are hereby authorized and required forthwith, or as soon as may be after the time or times at which such meetings should have been held, and such powers should have been executed, to meet and execute the same, and cause the same to be executed, so as that all the duties by law payable on assessment be duly and effectually charged, raised, levied, collected, and paid to his majesty, his heirs and successors; and all such meetings and acts of the said commissioners, or any two or more of them, shall be deemed and are hereby declared to be good and valid, to all intents and purposes, notwithstanding any such omission or defect."

Sect. 32. "That if, in any parish, ward, or place, in that part of Great Britain as aforesaid, any failure shall happen in the appointment of the assessor or assessors, or collector or collectors, whereby the assessments or collection of the duties is likely to be delayed, it shall be lawful for any two justices of the peace of any county in that part of Great Britain as aforesaid, the ridings of York, or divisions of Lincoln, whenever such failure shall happen in any parish, ward, or place within such county, riding, or division, or in any town or place adjoining thereto, such town or place not being a county of itself herein mentioned, and for the chief magistrate and justices of the peace of any city, town, or place, being a county of itself, and they and every of them, on notice of such default to be given by the surveyor, are strictly enjoined and required to appoint an assessor or assessors, or a collector or collectors, as the case may require, observing therein the rules and regulations prescribed by this act for the appointment of such respective officers by commissioners; and if any person appointed by the justices or magistrates as aforesaid, to be an assessor or collector, shall wilfully neglect or refuse to take upon himself the office of an assessor or collector, or shall wilfully neglect or refuse to perform his duty in the speedy and faithful execution of his office; or if any person so appointed to be an assessor shall neglect or refuse to take the oath or affirmation directed to be taken by assessors by this act, as the case may require, every such person so offending shall forfeit and pay the sum of 50*l*."

6. OF DISTRAINING, &c., FOR ARREARS OF TAXES.

The 43 Geo. III. c. 99, s. 33. "That if any person or persons shall *refuse* to pay the several sum and sums charged upon him, her, or them, by any act or acts granting the duties herein mentioned, or any other duties to be

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43 Geo. 3, c. 99,

If assessments and duplicates are not signed in due time, commissioners in the same county may allow the same.

When commissioners do not meet within the time prescribed by this act, they may meet at other times, and execute any of the powers therein contained.

Where assessors or collectors are not appointed, two justices of the peace in any county, or the chief magistrate and justices in any city, &c., may appoint them (a).

Persons so appointed assessors or collectors refusing to perform the duty, or to take the oath required, shall forfeit 50*l*.

Collectors, on payment of the duties being refused, to *distrain*;

(a) In 48 Geo. III. c. 141, s. 1, Rule 1, where assessors are to be appointed before 1st April, annually, see *post*.

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and keep the distress so taken four days, and if the duties are not then paid, to sell the same.

Collectors in the day-time may break open houses, having a warrant from the commissioners for that purpose, and taking a constable with them.

When sufficient distress cannot be found, the party may be committed to prison.

Question or difference respecting distress to be determined by the commissioners (b).

assessed under the regulations of this act, upon demand (a) made by the collector or collectors of the division or place, according to the precepts or estreats to him or them delivered by such commissioners, it shall be lawful to and for such collector and collectors, or any of them, who are hereby respectively thereunto authorized and required, for non-payment thereof, to *distrain upon the messuages, lands, tenements, and premises, charged with any sum or sums of money* (b), or to distrain the person or persons so charged, by his or their goods and chattels (b), and all such other goods and chattels as they are *hereby* authorized to distrain (b), without any further authority from the commissioners for that purpose than the warrant to such collector or collectors, delivered at the time of his or their appointment, and the distress so taken to keep by the space of four days, at the costs and charges of the party so refusing; and if the said party doth not pay the respective sums of money so due within the said four days, then the said distress to be appraised by two or more of the inhabitants where the said distress is taken, or other sufficient persons, and there to be sold by the said officer for payment of the said money, and the overplus coming by the said distress (if any there be), after deducting the said money, and also the costs and charges of taking, keeping, and selling the said distress, which costs and charges the said officer is hereby authorized to retain, to be restored to the owner thereof; and, moreover, it shall be lawful, in such case, to break open in the day-time any house, upon warrant under the hands and seals of two or more of the said commissioners, obtained for that purpose, calling to their assistance the constable, tithingman, or headborough, within the counties, shires, stewartries, cities, towns, and places, where any refusal, neglect, or resistance shall be made, which said officers are hereby required to be aiding and assisting in the premises, as they will answer the contrary at their peril; and if any person or persons appointed to pay any of the duties charged by any act or acts, as aforesaid, shall refuse or neglect to pay the said sum or sums so appointed to be paid, by the space of ten days after demand, as aforesaid, where no sufficient distress can or may be found whereby the same may be levied, then, and in every such case, two or more of such commissioners are hereby authorized, by warrant under their hands and seals, to commit such persons to the common gaol, there to be kept, without bail or mainprize, until payment shall be made; and, if any question or difference

(a) It should seem, that a reasonable time must elapse between making a *formal demand* and taking a distress, or an action of trespass may be sustained. (*Gibbs v. Stead and another*, 8 B. & C. 528; 2 Man. & Ry. 547.) But see *Rex v. Ford & others*, 4 Nev. & Man. 451; 1 Harr. & Wol. 46, S. C.; where it was decided that in order to authorize a levy under 43 Geo. III. c. 99, s. 33, for arrears of assessed taxes, it is not necessary that those arrears should have been demanded by the collector in person upon the householder in person, or that there should have been a direct refusal of payment to the collector in person; but it is sufficient if a demand have, in fact, been made by the collector, or a person authorized by him, and the householder has refused payment, whether on the ground of inability or for any other cause. Nor is it necessary that the collector should in the demand specify the *exact sum*. Nor is it essential that the collector should have his warrant with him at the time he distrains. (*Rex v.*

Ford and others, 2 Adol. & Ell. 588; 4 Nev. & Man. 451.)

But where a demand is made not on the individual able to pay, but on the premises whilst the occupier is *absent*, then a reasonable time must be allowed to elapse after the demand made; otherwise the non-payment is not evidence of a refusal, and a distress will be unlawful. (*Gibbs v. Stead*, 8 Bar. & Cres. 528, 533, 4; 2 Man. & Ry. 552, 3.)

If a collector has himself paid the tax upon or without the request of the party assessed, *semble*, he cannot distrain after six months from the time of such payment have expired. See 48 Geo. III. c. 141, No. 5, Rule 6, *post*.

(b) See the construction of this clause, and on what goods a distress may be made, and for what description of assessed taxes, *The Earl of Shaftesbury v. Russell*, 1 B. & C. 666; 3 D. & R. 34, S. C.; *Juson v. Dixon*, 1 M. & Sel. 601: from which it is to be collected, that, for assessments on *windows* and

shall arise upon taking such distress, the same shall be determined and ended by two or more of such commissioners (c)."

Sect. 34. "Provided, that nothing herein contained shall be construed to restrain the said commissioners, or any of them, from acting as commissioners in any part of the county, riding, division, or place, for which they are appointed; and that all warrants and precepts of the said commissioners shall and may be executed by the respective persons to whom the same are directed, in any part of the same county, riding, division, or place, for which they are appointed."

Sect. 35. "And whereas it may frequently happen that persons quitting their dwelling-houses or places of residence may remove to other parishes or places, without first discharging or paying the duties charged upon him, her, or them, whereby the said duties made payable by this act will be lost, unless such person or persons so removing can, after such removal, be compelled to pay the same; be it further enacted, that the commissioners acting by virtue of this act, within such parish or place where such duties are charged upon and unpaid by the person or persons removing, as aforesaid, shall sign and cause to be transmitted a certificate thereof to the commissioners acting within the parish or place where the person or persons making such default of payment shall happen to reside; which commissioners, or any two or more of them, shall and they are hereby empowered to raise and levy the said duties charged upon the party or parties removed, as aforesaid, and cause the monies so raised and levied to be paid to the collector of the parish or place from whence the said person or persons did remove, so as the same may be paid and applied according to the true intent and meaning of this act."

Sect. 36. "That, where any parish or place shall be in two or more counties, ridings, or divisions, the duties charged or to be charged in or for such parish or place shall be assessed, raised, levied, collected, and paid, by and under the commissioners acting for that part of the said parish or place where the church or other place of public worship aforesaid shall be situate, and that the whole of such parish or place shall be deemed, for the purposes of this act, to be situate in such county, riding, or division, wherein such church or other place of public worship shall be situate; and also where any dwelling-house, or any other premises occupied therewith hereby charged, shall be situate in two or more parishes, wards, or places, the whole duties to be charged thereon shall be assessed, raised, levied, collected, and paid, in one of the said parishes, wards, or places only, and the parties so charged shall be relieved from any second assessment made thereon, or any part thereof, as in other cases of double assessments."

Sect. 37. "That no goods or chattels whatever, belonging to any person or persons at the time any of the said duties to be assessed under the regulations of this act became in arrear, shall be liable to be taken by virtue of any execution or other process, warrant, or authority, or by virtue of any

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Commissioners may act for any part of the county for which he is appointed.

Warrants of service may be executed in any part of a county, riding, &c.

When persons remove without paying the duties, the commissioners to certify the same to the commissioners of the place where the party can be found;

who are to cause the amount thereof to be levied, and to be paid to the collector of the parish where the assessment was made.

Parishes or places being in two counties, the duties to be assessed in the county where the church is situate; and houses situated in two parishes, the whole of the duties to be charged in one.

No goods to be taken by virtue of any process, except at the suit of the landlord for rent, unless the party shall pay, or cause to be paid, the arrears, not exceeding one year.

houses, which are charged upon the premises, any goods, even of a stranger upon the premises, may be taken. (*Juson v. Dixon*, 1 M. & Sel. 601.) But with respect to the duties on horses, carriages, dogs, and others, mentioned in C. D. E. F. G. H. I. J. K. of 43 Geo. III. c. 161, which are charged only upon the person, only the goods of the person charged can be taken, except in instances expressly provided for. (1 B. & C. 669, *supra*.) One warrant of distress, for separate and distinct arrears, under different acts of parliament, is valid. (*Patchet v. Bencroft*, 7 T. R. 367.) *Semble*, that according to *Rex v. Clarke and*

another, 4 Nev. & Man. 671; 3 Adol. & Ell. 287, a collector may take and keep with him a peace officer if he expect violent resistance on applying for payment; but not so unless he has reasonable ground to expect a like resistance; and a collector may distrain without having his warrant with him. (*Rex v. Clarke*, 4 Nev. & Man. 671.)

(c) In *The Earl of Shaftesbury v. Russell*, 1 B. & C. 666; 3 D. & R. 84, S. C., it was held, that as the jurisdiction of the superior courts was not expressly taken away, an action at common law might be maintained for a wrongful distress for taxes.

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

In case of refusal, the collectors may distrain and sell the goods.

Powers of the 27 Geo. 2, and 33 Geo. 3, to be used by commissioners, &c. in recovering arrears (a).

Commissioners, quarterly or twice in a year at least, to call the collectors before them and examine them upon oath as to the sums collected by them and paid to the receiver-general; also as to the amount of arrears, and cause thereof (b);

assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the party at whose suit the said execution or seizure shall be sued out or made, or to whom such assignment shall be made, shall, before the sale or removal of such goods or chattels, pay or cause to be paid to the collector or collectors of the said duties so due, all arrears of the said duties which shall be due at the time of seizing such goods or chattels, or which shall be payable for the year in which such seizure shall be made, provided the duties shall not be claimed for more than one year; and in case the said duties shall be claimed for more than one year, then the said party at whose instance such seizure shall have been made, paying the said collector or collectors the aforesaid duties due for one whole year, may proceed in his seizure as he might have done if no duties had been so claimed; but in case of refusal to pay the said duties, the said collector or collectors are hereby authorized and required to distrain such goods and chattels, notwithstanding such seizure or assignment, and proceed to the sale thereof according to this act, in order to obtain payment of the whole of the said duties so assessed, together with the reasonable costs and charges attending such distress and sale; and every such collector so doing shall be indemnified by virtue of this act."

Sect. 38. "That all remedies, advantages, powers, methods, and things, which by any act or acts concerning bankrupts, or concerning the method of recovering rent in arrear, are given or granted to any creditors, lessors, or landlords respectively, and all the powers and provisions of an act passed in the twenty-seventh year of the reign of King George the Second, intituled, 'An Act for the more easy and effectual Proceeding upon Distress to be made by Warrants of Justices of the Peace;' and also of another act, passed in the thirty-third year of the reign of his present majesty, intituled, 'An Act to authorize Justices to impose Fines upon Constables, Overseers, and other Peace and Parish Officers, for Neglect of Duty, Masters of Apprentices for Ill-usage of such their Apprentices;' and also to make provision for the execution of warrants of distress granted by magistrates, as far as the same powers of the said last-mentioned act relate to the execution of warrants of distress granted by justices of the peace, shall be used and practised by such respective commissioners, and by any collector, surveyor, or inspector as aforesaid, acting under the authority of such commissioners, for the recovering and securing any arrears of such duties, as are to be assessed under the regulations of this act, over and above the powers, remedies, rules, and regulations, contained in this act, as fully and effectually as if the same remedies, advantages, powers, provisions, methods, and things were particularly and severally repeated and re-enacted in this act."

Sect. 39. "That at the end of every quarter of a year appointed for the payment of the sums assessed, or any part thereof, or within *one calendar month thereafter*, or at such other times as they shall think expedient, but *nevertheless twice at least; videlicet*, on or before the *first day of November* and the *first day of May following* in every year, and so from time to time as often as shall be necessary, the several and respective commissioners appointed to put this act in execution, or any two or more of them, within their district, shall and are hereby empowered *and required* to call before them the *collector or collectors appointed within each parish* or place, as the case may require, and to examine him or them upon oath or solemn affirmation, *and assure themselves* of the sum or sums of money that shall have been collected and paid to such collector or collectors of the duties given to them, or any of them in charge, and to *make such order* therein for the payment of the same to the receiver-general, on the day or time appointed for receiving the same, as they shall judge necessary; and also to assure themselves of the sum or sums in arrear, and the cause or causes thereof; and also, upon such oath or affirmation, to examine the said collector or

(a) See, *ante*, 939, 940, sect. 33, and Geo. III. c. 161, s. 84; and see 48 Geo. III. c. 141.

(b) See 20 Geo. II. c. 3, s. 34; 43

collectors touching the due payment over of any sum collected by him or them in any preceding part of the same year, and in every such case to make such order therein as aforesaid; and the said commissioners are hereby empowered *and required*, in every year, to call before them the collector or collectors appointed in each parish, ward, or place, in any former year, where any sum or sums of the duties charged by virtue of any act or acts before mentioned shall be in arrear or unpaid to the receiver-general, and to examine the said collector or collectors on such oath or affirmation as aforesaid, and to assure themselves of the sum or sums of money collected by him or them, and of the sum or sums in arrear, and also the sum or sums paid over to the receiver-general, and of the sums remaining in the hands of the said collector or collectors, and to make such order therein as they shall judge necessary to prevent any failure in the payment, in any part of the assessment charged by virtue of any such act or acts, and so from time to time, as long as any of the arrears of the said duties, or any of them charged upon any of the said parishes, wards, or places, shall be in arrear; and the respective receivers-general, inspectors, and surveyors, shall, when required so to do, be assisting to such commissioners in their inquiry in all matters relating to their respective offices."

Sect. 40. "That if any wilful delay or failure shall happen in demanding, receiving, recovering, or paying over any monies of the duties assessed as aforesaid, through the default or neglect of any collector or collectors, it shall be lawful for such commissioners to *revoke* the appointment of such collector or collectors so in default or neglecting, as aforesaid, and by indorsement on the same precept or precepts of appointment, or otherwise by their precept, to appoint a collector or collectors in his or their stead for the remainder of the year, with full power to collect the arrears of the sums then due; and it shall also be lawful for such commissioners, whenever the same shall be necessary, to *revoke* such last-mentioned appointment, and to appoint a collector or collectors in like manner, from time to time, and as often as any such collector or collectors shall be guilty of such default or neglect, provided security be taken, if required, as in the case of an original appointment, and provided the like security be taken on every such new appointment as shall have been required to be taken on the appointment of collectors at the commencement of any year, as hereinbefore is mentioned; and such collector or collectors so in default as aforesaid, shall, on the demand of such commissioners, deliver up to them, or in their presence, to the collector or collectors newly appointed, all such certificates of assessments which he or they were charged to collect, and all accounts of receipts and vouchers of payment as aforesaid, and also shall pay to the receiver-general all sums then in his or their hands, at such time as such commissioners shall appoint; and if any person, after such removal from the office of collector, shall refuse or neglect to do any matter or thing required by this act, every such person shall forfeit and pay the sum of 50*l.*, to be charged in any assessment of such duties as aforesaid, for such parish, ward, or place, and recovered as such assessment may be recovered, and shall also remain liable to such other forfeitures and disabilities that may be incurred by virtue of this act, for detaining the said monies in his hands after such demand made of the same as aforesaid."

Sect. 41. "That if any collector, being duly summoned, shall refuse to attend such respective commissioners, or shall not answer all such lawful questions as shall be demanded of him by such commissioners, touching the execution of his office of collector, or shall refuse or neglect to produce to them the certificates of assessments, accounts, or vouchers of such receipts or payments as aforesaid, or shall not obey the order of such commissioners to be made as before directed, every such collector shall forfeit and pay the sum of 50*l.*, to be charged upon him in any assessment as aforesaid, and to be recovered as such assessment may be recovered, over and above any forfeiture or disability that may be incurred by virtue of this act for detaining monies of the said duties in his hands, contrary to this act; and whenever any money of the said duties herein mentioned, shall be detained in the

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99.

also the collector of any former year.

Receiver-general, inspector, and surveyor, when required, to assist commissioners.

Collectors neglecting their duty may be dismissed, and the commissioners may from time to time appoint others.

Collectors dismissed to deliver, on demand of the commissioners, to the new collector, the certificates of assessments, &c., or in default to forfeit 50*l.*

Collectors refusing to attend commissioners with their assessments, &c., to forfeit 50*l.*

If monies in the hands of collectors

1. *The Act relating to Management of Commissioners.*

43 Geo. 3, c. 99. cannot be recovered under the warrant of the commissioners, or the commissioners shall neglect to issue such warrant, the amount shall be recoverable as a debt upon record (a).

hands of any collector or collectors, or any penalty or penalties imposed on any collector or collectors shall remain unpaid, and the same, or any part thereof, cannot be recovered by or under the warrant or authority of the respective commissioners, or the said respective commissioners shall neglect to issue such warrant, then such part thereof as cannot be so recovered, which shall have arisen from the said duties, shall be recoverable as a debt upon record to the king's majesty, his heirs and successors, with all costs and charges attending the same; and such part thereof which shall arise from any penalty as aforesaid, may be recovered by action or information, as other penalties may by this act be recovered, with full costs of suit; and the sum so recovered shall be paid to the receiver-general, *in aid of the parish or place answerable for the same.*"

(a) If a collector of assessed taxes does not pay over all sums collected by him, the parish is answerable to the crown for the deficiency. (*R. v. St. George's Hanover Square*, 3 *Anst.* 920.)

A collector of taxes in custody under an extent is not entitled to be discharged, although his deficiency has been made good to the crown by a re-assessment upon the parish. (*R. v. Bennett*, *Wightw.* 1.)

Local commissioners for the affairs of taxes issued their warrant, under the 43 Geo. III. c. 99, ss. 41 & 52, for seizing and securing the real and personal estate of a collector refusing to pay over money received by him, but as matter of arrangement did not proceed to sell the property so seized under such warrant, which had been issued expressly to secure a *certain sum* of money said to be due from him to the crown. Five days after, the solicitor for the taxes (the collector being declared a bankrupt on that day) issued extents, under which was taken not only the property already secured by the warrant of the commissioners of taxes within their jurisdiction, but also other real and personal property in other places, for the purpose of levying *precisely the sum claimed on the same account*; but it being eventually discovered, that *the sum actually due* to the crown for monies received by the collector, amounted to *very considerably more* than the sum for which the warrant (and consequently the extent) had issued, but *not to double* the amount, the crown sold all the property, and applied the proceeds in discharge of the public debt, in aid of the parish, as far as it extended to satisfy it, which produced a net sum much larger than the sum sought to be raised originally, but not sufficient to pay the whole debt; which sum, so produced, was paid into the receipt of the Exchequer in August, 1817. Under such circumstances, this court refused to make absolute a rule (founded on the objection, that it was having recourse to two modes of proceeding for the

same debt) granted to show cause (obtained on a motion made in July, 1819), why it should not be referred to the deputy remembrancer, to take an account of the money due to the crown, with a view to get the surplus, beyond the amount of the sum originally sought to be levied, paid back to the assignees of the bankrupt, holding that, for such a debt so incurred in such a character, the crown was entitled to use *every* mode of proceeding given by statute. The delay in the application, although not conclusive against assignees, strongly prejudiced their claim. (*R. v. Jones*, 8 *Price*, 108.)

The protection of parishes from re-assessment is an object of the care of the Court of Exchequer; and the necessity of process of extent in the second degree for that purpose, where a collector is become defaulter, is a strong ground for granting a *fiat*; and the existing liability of the parish is consequently no answer to the objection of the crown debt not being in danger. (*R. v. W. Bell*, 11 *Price*, 772.)

Distinction between extent in aid and extent in chief in the second degree:—

The statute of the 57th of Geo. III. does not apply to extents in chief in the second degree. Therefore, the crown may proceed by extent to recover a small debt due from a person indebted to the crown debtor (a collector of taxes), who had received and misapplied the crown's money, although he be not a debtor to the crown within the fourth section of that statute. Neither does the recent rule of court, respecting extents in aid, apply to extents in chief in the second degree. It is not necessary, in the affidavit made for obtaining a baron's *fiat* for such an extent, in such a case, that there should be any averment of the insolvency of the crown debtor, or any fact stated from which it may be inferred. *Id. ibid.*

Nor is it necessary, *in such a case*, that collusion should be negatived. (*Id. ibid.*)

The sheriff is entitled to levy costs, under 43 Geo. III. c. 99, on an extent against a collector of taxes; and the

Sect. 42. "That the collector or collectors appointed for any parish, ward, or place as aforesaid, when required so to do by the churchwardens and overseers, or guardians of the poor, or any two of them, or the select vestry as aforesaid, or any seven of them, shall deliver to them respectively an account in writing of the sums received by such collector or collectors, and of the sums in arrear, and of the sums remaining in his or their hands, and also of the sums paid to the receiver-general; and if any collector shall refuse or neglect so to do, within fourteen days after such demand shall be made, he shall forfeit and pay to the use of the poor of such parish or place, where such collector shall reside, the sum of 20*l*."

Sect. 43. "That if any collector to be appointed as aforesaid, shall neglect or refuse to demand payment of all sums of money given in charge to such collector of the respective persons chargeable therewith, or leave a demand in writing at their respective places of last abode, or on the premises, charged with the assessment, as the case may require, within the time herein limited; or in case of default of payment thereof upon such demand, shall neglect or refuse to execute the warrant or precept of the commissioners for recovering the same, within two calendar months after the said duties are payable, as by this act directed, it shall not be lawful for such collector to insert in the schedule to be by the receiver-general returned into the Exchequer, the name of such person as having made default of payment of any of the sums rated or assessed on such person, but the parish, ward, or place respectively, for which such collector shall have been appointed, shall be answerable for the same, in the manner directed by any acts or acts for granting the said duties herein mentioned."

Sect. 44. "That no collector appointed for any parish, ward, or place, shall be allowed to insert in any schedule the name of any person to be returned into the Exchequer as not having paid the duties made payable by any act or acts herein mentioned, unless such collector shall make oath, or, being one of the people called Quakers, shall make and subscribe a solemn affirmation before two commissioners (who respectively shall certify the said oath or affirmation on the said schedule), that the sum for which such person is so returned in default, is due and wholly unpaid, either to such collector, or to any other person or persons for such collector, to the best of his knowledge and belief, and that such person became insolvent or bankrupt before the day on which the duties became payable, and had not goods and chattels sufficient whereon to raise and levy such duties within the parish, ward, or

43 Geo. 3, c. 99.

Collectors, when required by the churchwardens, &c., to deliver a statement of their account, on penalty of 20*l*.

If collectors do not demand duties of the parties charged, and execute the warrants of the commissioners within a limited time, the names of such persons cannot be returned into the Exchequer, but the parish must be answerable for the same.

Collectors not to insert in any schedule to be returned into the Exchequer, any person as a defaulter, unless upon oath as to certain particulars.

sheriff's poundage is included in the word charges, and may be levied; and it is payable where the money is paid in before a *venditioni exponas* has issued, although that proceeding is obviated thereby.

But if the agent in the country, of the solicitors for taxes, have received any money from the defendant as costs under the levy, or the sheriffs have taken anything for extra costs, as bailiff's fees and keeping possession, the court will order them to refund.

It does not seem to be necessary, under that act, that the commissioners should issue their warrant against the collector to recover the duties detained, to authorize the issuing of an extent against him as a condition precedent; or, if it be, it is rather a ground of a motion to set aside the extent for irregularity.

The bill of the solicitors prosecuting the extent for the crown may be taxed. (*R. v. Collingridge*, 3 Price, 280.)

It was doubted whether a re-assess-

ment could go for the duties on carriages, servants, and horses. (*R. v. Wimbledon*, 3 Anst. 855.)

If the acting commissioners of taxes refuse (unless indemnified) to proceed to make a *re-assessment* on a parish, to which the deficiency applies, in execution of the powers entrusted to them by the several acts of parliament, where an *insuper* has been set on the parish, whose collector is a defaulter, the Court of Exchequer will order them to do so, by rule to show cause, in the nature of a *mandamus*; and will also order a service on their clerk to be deemed good service: the crown is not limited to any time within which to make such an application. (*In re Wootton*, 6 Price, 105.)

In *R. v. Deane*, 2 Anst. 369, it was held, that where a collector of revenue gave a bond to the crown, the penalty is a security against all the expenses of process and execution against him.

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 99.

Collectors to make a return upon oath of persons from whom the duties cannot be collected.

Commissioners, after examination on oath of the collector, shall make out schedules of the sums discharged from the assessments, and the sums with which the defaulters ought to be charged, and the sums which ought to be re-assessed upon the parish, and deliver the same to the receiver-general to be returned into the Exchequer that process may issue.

In default of such schedule, the receiver-general to return the parish *insuper*.

Collector neglecting to make returns, to forfeit 100*l*.

Commissioners to cause two duplicates to be made out within one month after Feb. 10; one for the receiver-general, and the other to be transmitted to the Remembrance Office.

Duplicates to contain the full sum given in charge to the collectors.

place, for which such collector shall have been appointed at any time since such duties became payable, or that such person removed from the parish, ward, or place for which such collector shall have been appointed before the day on which such duties became payable, without leaving therein sufficient goods and chattels, whereon such duties then payable could be raised and levied, and that there were not, nor are, any goods and chattels of any person or persons liable to the payment of such duties in arrear, or any part thereof, whereby the same, or any part thereof, could or might be raised or levied, which oath or affirmation shall be indorsed on such schedule."

Sect. 45. "That the collectors appointed as aforesaid shall make a due return fairly written on paper, under their hands, to such commissioners, containing the names, surnames, and places of abode of every person within their respective collections, from whom such collector or collectors shall not have been able to collect or receive such duties for any of the causes before mentioned, and which shall have been duly verified on the oath of such collector as aforesaid, and the particular reason for returning each defaulter, and the sum and sums charged upon every such person; and such commissioners, after due examination thereof on the oaths or affirmations as aforesaid of the collectors, shall ascertain the sums which, according to the provisions of any of the said acts herein mentioned, shall have been discharged from assessment for any cause therein specially allowed; and the said commissioners shall also make out their schedules containing the sums so discharged, and the sums with which each and every such defaulter ought to be charged, and the sums which shall not have been collected by occasion of the collector's neglect, and which ought to be re-assessed on the parish, ward, or place as aforesaid, and shall cause the said several particulars to be inserted in a schedule fairly written on parchment, under the hands and seals of such commissioners, or any two or more of them, containing the names and surnames of the said collectors, and the same to be delivered to the receiver-general, to be returned by such receiver-general into his majesty's said Court of Exchequer, *whereupon every person so making default of payment (a), and each parish, ward, or place, so in default, may be charged by process of court according to the course thereof in that behalf*; and, in default of such schedule made out according to the directions of this act, it shall be lawful for the receiver-general, and he is hereby required, to return every such parish, ward, or place *insuper*, for all sums not paid to the receiver-general, and contained in the duplicate of assessment to him delivered, *and all such sums so returned shall in such case be re-assessed on such parish, ward, or place*; and all and every the proper officers therein concerned shall, and they are hereby required, to take care, from time to time, that such process be duly issued and made effectual, so that all such sums as shall be in arrear and unpaid as aforesaid, may be speedily recovered and paid into his majesty's Exchequer; and if any such collector shall neglect or refuse to make such return in manner before directed, every such collector shall forfeit the sum of 100*l*."

Sect. 46. "That the respective commissioners aforesaid shall cause two duplicates of every assessment to be made out on parchment by their clerk, within one month at farthest after the tenth day of February, after the making the said assessment yearly, and one of them to be delivered unto the respective receivers-general, and the other of them transmitted into the office of king's remembrancer in the Exchequer, for which duplicates the proper officer shall give acquittances *gratis*, so as every of them may be duly charged to answer their respective collections and receipts, and the said duplicates shall be made for the same hundreds, rapes, laths, wapentakes, wards, parishes, or places, or divisions, for which distinct duplicates are directed to be made out, or may be made by virtue of the said recited act for granting an aid by a land-tax before mentioned, and every such duplicate shall contain the

(a) Mode of procuring the discharge of a crown debt (arrears of taxes), and obtaining release from process, where the debt is paid by the crown debtor, is upon motion by the attorney-general. (See the proceedings, *Ex parte Bennett*, 11 Price, 770.)

names and surnames of the several assessors and collectors for every hundred, rape, lath, wapentake, ward, parish, or place, or other division, and the full amount of the sums given in charge to the collectors throughout the whole year shall be inserted, without any discharge, diminution, or defalcation, on any pretence whatever; and if any clerk to such commissioners shall neglect or refuse to make out and deliver such duplicates as aforesaid, within the time and in manner hereinbefore directed, or shall make any false entry, or omit any sum or sums in such duplicates, every such clerk shall forfeit and pay the sum of 100*l.*, and, on conviction thereof, shall be discharged from his said office."

Sect. 47. "That in case there shall be any failure of assessing or charging the said duties in any parish, ward, or place, or of returning the duplicates of the assessments made for any such parish, ward, or place, or of raising or paying the several sums charged upon any person or persons in any such parish, ward, or place, within the respective times limited by this act, the receiver-general acting for the duties charged or to be charged on such parish, ward, or place, shall and may, at any time after such failure hath happened, certify to the barons of the Court of Exchequer at Westminster, the particular parish and parishes, ward or wards, or place and places, and the particular division where any such failure hath happened, and the cause thereof, to the best of his knowledge, together with the names of the commissioners appointed, as aforesaid, to act for the hundred, rape, lath, wapentake, city, ward, town, or place, or the division wherein such failure hath happened, or any two or more of them residing within such division, hundred, rape, lath, wapentake, city, ward, town, or place, and also the names of the assessors, and collectors, and the several persons belonging to such parish or place charged to such duties, and who shall have made failure in the payment thereof, in case an assessment shall have been made, which said commissioners, assessors, and collectors, and any person or persons charged with such duties, shall be respectively liable to process for such neglect by the order of such barons, according to the exigency of the case, which process shall be by writ of *distringas*, to be forthwith, and from time to time, as there shall be occasion, issued out of the said court, on the application of the commissioners for the affairs of taxes, against such of the said commissioners, officers, or persons, who shall have made such failure, upon which writ of *distringas*, the sheriff or other officer to whom the same shall be directed, shall return such issues as the said court shall order at the return of such writ; and immediate process shall thereupon issue for levying the same, out of and under the seal of the said Court of Exchequer, unless the said commissioners for the affairs of taxes shall certify to the said court, if in the term time, or to any one of the said barons, if in the vacation, that the commissioners, officers, and other persons, against whom such writ issued, have complied with the directions of this act, in which case it shall be lawful for such court or baron to cause such process to be respited till a future day, and so from time to time, or to be finally discharged."

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 59.

Clerks neglecting to make out duplicates, or making false entry, to forfeit 100*l.* and be dismissed.

In case of failure in assessing the duties, or returning the duplicates for any parish, the receiver-general to certify the same to the barons of the Exchequer, with the names of the commissioners, assessors, &c., who shall be respectively liable to process from time to time by writ of *distringas*, on application of commissioners of taxes.

Commissioners of taxes to certify to the Court of Exchequer when the persons against whom such writ shall issue have complied with the directions of the act, upon which the process may be respited or discharged.

The 48 Geo. III. c. 55, enacts, that every collector shall have 3*d.* in the pound for what money he shall pay to the receiver-general in due time for all the duties in this act, except schedule (L.); and for the duly writing and transcribing the assessments, duplicates, warrants, and estreats (a).

48 Geo. 3, c. 55. Collectors.

(a) The protection of parishes from re-assessment is an object of the care of the court; and the necessity of process of extent in the second degree for that purpose, where a collector is become defaulter, is a strong ground for granting the *fiat*; and the existing liability of the parish is consequently no answer to the objection of the crown debt not being in danger. (*R. v. Bell*, 11 *Price*, 772.)

If the acting commissioners of the land-tax, assessed taxes, &c., refuse (unless indemnified) to proceed to make a re-assessment on the parish to which the deficiency applies, in execution of the powers entrusted to them by the several acts of parliament, where *insuper* has been set on the parish whose collector is a defaulter, the court will order them to do so by rule to show cause in the nature of a

1. *The Acts relating to Management of Commissioners.*

59 Geo. 3, c. 118.
Not liable to assessment after the 5th April which shall next happen after bankruptcy or insolvency, for articles kept and used for trade.
Not to affect payment made by assignees.

5 & 6 Wil. 4, c. 20.
Commissioners of the district to which any person shall remove without paying the duties assessed, to commit such person to prison in default of sufficient distress.

Defaulters committed to prison to be liable to the payment of the expenses of their commitment.

But by stat. 59 Geo. III. c. 118, s. 1, no person or persons becoming or who shall have become bankrupt or insolvent shall be liable to be assessed to the duties of assessed taxes, after the 5th of April next after the time of such bankruptcy or insolvency, in respect of any article or articles kept and used for the purposes of trade, at or before the time of such bankruptcy or insolvency, which article or articles shall have been seized or surrendered, and *bonâ fide* sold under or by virtue of such bankruptcy or insolvency, and not kept or used by such bankrupt or insolvent, after the 5th day of April next after such bankruptcy or insolvency: provided that nothing herein contained shall be construed to affect the payment by the assignee or assignees of every such bankrupt or insolvent, and such assignee or assignees shall pay the duties assessed on every such bankrupt or insolvent, at the time of such bankruptcy or insolvency, up to the 5th day of April next after the same shall have happened, as if this act had not been made.

By stat. 5 & 6 Wil. IV. c. 20, s. 16, after reciting, that by stat. 43 Geo. III. c. 99, "where any person shall quit his or her place of residence and remove to any other parish or place without first discharging or paying the duties charged upon him or her, the commissioners acting within the parish or place where such duties are charged upon and unpaid by the person removing as aforesaid, are directed to sign and cause to be transmitted a certificate thereof to the commissioners acting within the parish or place where the person making such default or payment shall happen to reside, which commissioners, or any two or more of them, are thereby directed and empowered to raise and levy the said duties charged upon the party removed as aforesaid: and whereas it frequently happens that no sufficient distress can be found within the district or division of the said last-mentioned commissioners whereby the said duties may be levied, and it is expedient to provide a further remedy for the recovery of the said duties in such cases; be it therefore enacted, that where, upon the transmission of any such certificate as aforesaid, no sufficient distress can be found within the district or division of the commissioners acting for the parish or place within which the person removed shall happen to reside whereby the said duties may be levied, then and in every such case, any two or more of such last-mentioned commissioners are hereby authorized and required, by warrant under their hands and seals, to commit the person so making default of payment as aforesaid to the common gaol, there to be kept without bail or mainprize until payment shall be made of the said duties and of all reasonable costs and expenses."

Sect. 17. "In any case where, under or by virtue of any act or acts in force relating to the duties of assessed taxes, or by or under this act, the commissioners of taxes are authorized to commit any person to prison in default of payment of any of the said duties, it shall be lawful for the said commissioners by their warrant of commitment to direct that any such person shall be detained and kept in prison until payment shall be made as

mandamus. (Ex parte the Inhabitants of the Parish of Wootton, Bedfordshire, 6 Price, 103.)

If there be two collectors of taxes appointed under the 43 Geo. III. c. 99, s. 13, for a single parish, by the commissioners, one for one division of the parish, called the Upper Parish, and one for another, called the Lower Parish, and they accordingly collect the taxes separately from the several inhabitants of their respective divisions, in case of a deficiency in the amount of the taxes collected, through the misconduct of either the whole parish

must be re-assessed, and not the particular district the collector of which has misapplied the money, and from the collection of whose taxes the deficiency arises; although the taxes of the other division have been collected and paid over to the receiver-general, the appointment being held by the court to be considered as one appointment of two for the parish, which would be valid under the act, and not of one for each subdivision, which would be invalid. (*Ex parte the Inhabitants of the Parish of Henllan, Denbighshire, 7 Price, 594.*)

well of the said duties as of such further sum as the said commissioners shall adjudge to be reasonable for the costs and expenses of apprehending such person and of conveying him or her to prison; and every such person shall be detained and kept in prison according to the tenor and effect of such warrant."

Sect. 18. "Where, under or by virtue of any act or acts in force, any person hath been or shall be committed to prison by or under any warrant of the commissioners of taxes acting within or for any district or division, for or by reason of his or her neglect or omission to pay any duties which may have been assessed or charged upon him or her, or any penalty incurred by him or her under any act or acts in force relating to the land or assessed taxes, and he or she is or shall be detained in custody solely under the authority of any such warrant as aforesaid, it shall be lawful for the same commissioners, or for any two or more of the commissioners acting within or for the same district or division, and they are hereby fully authorized and required, at the request or by the direction of the commissioners of his majesty's treasury, or the commissioners of stamps and taxes for the time being, signified in writing, signed by the secretary or one of the secretaries of the said respective commissioners last mentioned, to issue their warrant to the gaoler or keeper of any gaol or prison in which any such person may be detained, for the liberation of such prisoner; and upon the receipt of such last-mentioned warrant, such gaoler or keeper shall forthwith release and discharge out of custody such prisoner, if for no other cause than as aforesaid he or she shall be detained."

59 Geo. 3, c. 118.

Commissioners of the taxes, by the direction of the treasury or the commissioners of stamps and taxes, may release prisoners committed for non-payment of duties or penalties.

6. COLLECTORS PAYING OVER MONEY—PARISHES' LIABILITY FOR DEFAULT, AND PROCEEDINGS THEREON (a).

By 43 Geo. III. c. 99, s. 48, "that all monies of the duties herein mentioned, to be assessed under the regulations of this act, shall, at such times as shall be appointed for the payment thereof, be paid by the particular collectors who shall collect the same, unto the receiver-general now or for the time being appointed by his majesty, his heirs or successors, or by the lord high treasurer for the time being, or the commissioners of the treasury for the time being, or any three or more of them, to receive the same, or the deputy or deputies of such receiver general, to be appointed under his hand and seal, and whom he is hereby authorized to appoint, and for whom he shall be answerable, whereof notice shall be given by the receiver-general unto the commissioners, or any two or more of them, within their respective districts, within twenty days after the first meeting, yearly, and so from time to time, within twenty days after every death or removal of any deputy, whenever any such shall happen; and the said receiver-general, his deputy or deputies, shall give receipts *gratis* to the said collectors of all monies by them received in pursuance of such act or acts; and the receipt of such receiver-general, his deputy or deputies or any of them, shall be a sufficient discharge unto every such collector."

Collectors to pay the amount of the duties to the receiver-general or his deputy.

Notice of appointment of deputies to be given to commissioners.

Receiver-general to give receipts to collectors, gratis.

Sect. 49. "That the receivers-general, their deputy or deputies, are hereby empowered and required to call upon and hasten the collectors to make the payments of all sums received by them of such duties as aforesaid, and in default of such payment, to cause the same to be levied by warrant under the hands and seals of any two or more of such commissioners, upon the collectors, by distress and sale of his or their goods and chattels, such sum and sums of money as he or they hath or have received, and as ought by him or them to have been paid, and is not paid."

Receiver-general to hasten collectors to make payments, and in default to cause the same to be levied by warrant of the commissioners upon the collector's goods.

Sect. 50. "That the particular collectors for payment of any sums by them received, unto such receiver-general or his deputy, shall not be obliged to travel above ten miles from the place of their habitations."

Collectors not obliged to travel above ten miles to make his payments to the receiver-general.

And see particularly sects. 39, 40, 41, 42, 43, 44, 45, *ante*, p. 942 to 946.

(a) See, *ante*, sect. 41, p. 944, and note (a).

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 99.

Collectors gathering by a false book, or receiving more than is charged in the rate, or fraudulently altering any rate, to forfeit 100*l*.

If collectors refuse to pay the duties received by them, or to deliver their accounts, the commissioners may imprison them, and seize their estate and effects.

Commissioners seizing collector's estate, &c., to appoint a meeting, giving ten days' notice thereof.

Commissioners at such meeting to sell the collector's estates and effects, to satisfy the debt due from him with costs and charges.

5 & 6 Wil. 4, c. 20. In cases where any county, &c. or person may be returned *insuper* for arrear of land or assessed taxes, the commissioners of stamps and taxes may transmit a certificate thereof to the king's remembrancer, which shall be enrolled in his office, and be the ground for process.

Sect. 51. "That no collector or collectors of any of the duties herein mentioned shall collect or gather the same by any rate or book, other than such rate and book as shall be signed and allowed by such commissioners as aforesaid, or any two or more of them; and that in case any such collector or collectors shall collect the same by any other rate or book, or shall receive such duties from any person or persons not charged therewith, or shall collect from any person or persons more money than is actually charged in such rate or book, and not pay the whole money by him collected, or fraudulently alter any such rate or book, after the same hath been signed and allowed by such commissioners as aforesaid, every such collector or collectors shall for every such offence forfeit the sum of 100*l*."

Sect. 52. "That if any such collector or collectors shall neglect or refuse to pay any sum or sums of money which shall be by him or them received as aforesaid, as in and by this act is directed, and shall detain in his or their hands any money received by them or any of them, and not pay the same at such time as by this act is directed, or shall have wilfully refused to give an account to such commissioners as aforesaid, of the sums by him or them collected *in manner before* directed, the said respective commissioners, or any two or more of them, in their respective jurisdictions, are hereby authorized and empowered to imprison the person, and seize and secure the estate as well *freehold as copyhold, and all other estate, both real and personal, of such collector or collectors* to him or them belonging, or which shall descend or come into the hands or possession of his or their heirs, executors, or administrators, wheresoever the same can be discovered and found; and such commissioners who shall so seize and secure the estate of any collector or collectors, shall and are hereby empowered to appoint a time for a meeting of the commissioners for such division, city, town, or place, and there to cause public notice to be given of the place where such meeting shall be appointed, ten days at least before such meeting; and the commissioners present at such meeting, or the major part of them, in case the accounts of such collector be not duly delivered, or the monies detained by any such collector or collectors be not *paid or satisfied*, as ought to be done according to the directions of this act, shall be and are hereby empowered and *required to sell and dispose of all such estates* which shall be for the cause aforesaid seized and secured, or any part of them, to satisfy and pay into the hands of the receiver-general the sum that shall not be so accounted for, or shall be so detained in the hands of such collector or collectors, their heirs, executors, or administrators respectively, together with the reasonable costs and charges of recovering, raising, and paying the same; which costs and charges shall be ascertained and settled by the said commissioners, and the overplus (if any) shall be restored to the person who owned the estate before the sale thereof."

And see the 48 Geo. III. c. 55, *post*, 960.

By stat. 5 & 6 Wil. IV. c. 20, s. 11, "so much of any act or acts as prohibits the setting *insuper* or charging any county, division, parish, ward, or place, or any person or persons, unless the account of the receiver shall be declared and passed in the exchequer within two years after the end of the year for which the rates or duties shall be payable, shall be and the same is hereby repealed; and in any case in which by any act or acts now in force the receiver-general, receiving inspector, or other receiver of the land or assessed taxes in England is directed or authorized to set *insuper* or charge any county, division, parish, ward, or place, or any person or persons, for any sum or sums of money in arrear or unpaid, it shall be lawful for the commissioners of stamps and taxes, from time to time whenever they shall deem it expedient for the public service so to do, and although the period so limited by any such act or acts as aforesaid may have expired, to transmit to his majesty's remembrancer of the court of exchequer a certificate of all or any such sum or sums which may be now in arrear, or which at any time hereafter may become in arrear and be unpaid; and every such certificate shall be signed by two or more of the said commissioners, and shall contain

the name or names of every or any such county, division, parish, ward, or place, and of such person or persons as aforesaid, and the total amount of the sum or sums in arrear or unpaid, and with which such county, division, parish, ward, or place, or such person or persons, is or are chargeable, and shall specify whether the same shall be due or owing in respect of the land-tax or of the assessed taxes, and where there shall be arrears of both the said duties, distinguishing the amount due or owing in respect of each; and the said remembrancer, upon the receipt of any such certificate, shall cause the same to be enrolled in his office, and such enrolment shall be and be deemed a record in his office as valid and effectual to authorize the issuing of any process or processes in the law against the county, division, parish, ward, or place, and the person or persons, so rendered chargeable, and to and for all other intents, constructions, and purposes whatsoever, as if such county, division, parish, ward, or place, or person or persons, had been actually returned *insuper* in any declared account duly enrolled as of record in the office of the said remembrancer."

1. *The Acts relating to Management of Commissioners.*

5 & 6 Wil. 4, c. 20.

Sect. 13. "And whereas by an act passed in the forty-third year of the reign of king George the Third, intituled, 'An Act for consolidating certain of the provisions contained in any act or acts relating to the duties under the management of the commissioners for the affairs of taxes, and for amending the same,' it is enacted, that the commissioners of taxes shall make out their schedules containing the sums discharged from assessment for any cause specially allowed by law, and the sums with which each and every defaulter ought to be charged, and the sums which shall not have been collected by occasion of the collector's neglect, and which ought to be re-assessed on the parish, ward, or place, and shall cause the said several particulars to be inserted in a schedule fairly written on parchment under the hands and seals of such commissioners, or any two or more of them, containing the names and surnames of the said collectors, and the same to be delivered to the receiver-general, to be returned by such receiver-general into his majesty's court of exchequer, whereupon every person so making default of payment, and each parish, ward, or place so in default, may be charged by process of court according to the course thereof in that behalf: and whereas it is expedient that such schedules as aforesaid should be deposited and remain with the said commissioners of stamps and taxes at their head office; be it therefore enacted, that all such schedules as aforesaid which shall be made out at any time after the commencement of this act shall be delivered over or transmitted by the receiver-general, receiving inspector, or other receiver to whom the same shall have been delivered, to the commissioners of stamps and taxes, and shall be deposited and remain in the head office of the said last-mentioned commissioners; and the production of any schedule so deposited and purporting to contain the name or names of any such defaulter or defaulters as aforesaid shall be conclusive evidence against any person named therein as making default of payment, and against every parish, ward, or place named therein as in default, of the sum or sums mentioned in any such schedule being due and owing and in arrear and unpaid to his majesty, his heirs and successors, unless payment thereof shall be proved; and every such sum shall be recoverable from the person and persons making default of payment thereof as a debt upon record to the king's majesty, his heirs and successors, with full costs of suit, and all charges attending the same."

43 Geo. 3, c. 99.

Parchment schedules of defaulters to be deposited with the commissioners of stamps and taxes.

Sect. 14. "So much and such part and parts of any act or acts in force as require the commissioners for the affairs of taxes to transmit to the king's remembrancer in England the parchment duplicates of assessments of the land-tax or assessed taxes, shall be and the same are hereby repealed: provided always, that such duplicates shall continue to be furnished and transmitted to the commissioners of stamps and taxes in the manner directed and required by the laws in force, and the same shall remain deposited in the head office of the said commissioners."

Parchment duplicates of assessments not to be transmitted to the king's remembrancer.

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 99.

Receiver-general to deliver a certificate of the sums received by him in each parish, to such person as the commissioners of the district, or the collector of taxes, shall appoint, under a penalty not exceeding 20*l*.

Receivers-general to pay the monies received by them into the Exchequer.

Receiver-general (unless his accounts are passed within two years) not to return any county, &c., *insuper*, for moneys in arrear, but the receiver to be answerable for the same.

Receiver-general returning any sums in arrear or *insuper* after he has received the same, to forfeit double the damages.

Commissioners of taxes to give notice of the death or removal of any

7. RECEIVER-GENERAL—PAYMENTS AND ACCOUNTS—AND INSPECTORS OF TAXES SUBSTITUTED.

By 43 Geo. III. c. 99, s. 53, "That at every time and place appointed by the commissioners of the district, for the collectors to pay in the monies to be paid to the receiver-general or his deputy, the said receiver-general or his deputy, under his hand, shall deliver a list or certificate, fairly written, to such person as such commissioners, or any two or more of them, or the commissioners for the affairs of taxes, or any three or more of them, for the time being, shall under their hands authorize and appoint to attend then and there for that purpose, containing the several and respective sums of money then and there or before that time paid by the respective collectors for each parish, ward, or place in that district; and in case there shall be any refusal or neglect in delivering such lists or certificates as aforesaid, such receiver-general or his deputy, so refusing or neglecting, shall forfeit any sum of money not exceeding 20*l*."

Sect. 54. "That the respective receivers-general shall pay the several sums of money by them received, as soon after the receipt thereof as conveniently can be done, and at such times and in such manner as shall be directed under the authority of this act; and in case such receiver-general or his deputy shall pay any part of the monies paid to him or them by any collector, to any person or persons whatsoever other than into the receipt of his majesty's said Exchequer, and at or within the respective times limited by this act (except the necessary charges of receiving, levying, managing, paying, and accounting for the same, as is hereinafter directed, and except such payments as shall be made by authority of any act or acts of Parliament,) then such receiver-general shall for every such offence of himself or his deputy forfeit the sum of 500*l*."

Sect. 55. "That no such receiver-general, or any heirs, executors, or administrators of such receiver, shall in any accounts of the monies where-with such receivers shall be chargeable as aforesaid (unless such account shall be declared and passed in the Exchequer, within two years at the furthest after the end of the year for which such rates and duties shall be payable), be allowed or admitted to set *insuper*, or charge any county, division, or place for any monies granted by any act or acts herein mentioned, which shall be in arrear and unpaid, but that the same shall remain a debt upon every such receiver, to be answered by him and his securities, his and their heirs, executors, and administrators' lands, tenements, goods, and chattels respectively; any thing herein contained to the contrary notwithstanding."

See sect. 19, *ante*, 936; sect. 35, 36, 37, 38, *ante*, 941, 942; 59 Geo. III. c. 118, s. 1, *post*.

Sect. 56. "That if any such receiver-general shall return or certify unto the said court, any sum or sums of money to be in arrear or unpaid, after the same have been received either by such receiver-general, or his deputy or deputies, or any of them, or shall cause any person or persons to be set *insuper* in the said court, for any sum or sums of money that have been so received, that then every such receiver-general shall forfeit to every person and persons that shall be molested, vexed, or damaged, by reason of such unjust certificate, return, or setting *insuper*, double the damages that shall be thereby occasioned, the said damages to be recovered by action of debt, bill, plaint, or information, in which no essoign, protection, or wager of law, shall be allowed, nor any more than one imparlance; and shall also forfeit to his majesty, his heirs and successors, double the sum that shall be so unjustly certified or returned, or cause to be set *insuper*, to be recovered as other penalties may be recovered by this act."

Sect. 57. "That if any such receiver-general shall die or be removed, notice thereof shall be given by the commissioners for the affairs of taxes, to two or more commissioners acting for each district in the county or place for which such receiver was appointed, before the time appointed for the next

quarterly payment of any of the duties herein mentioned, and so from time to time upon the death or removal of such receiver-general."

Sect. 58. "That no such receiver-general, or any of his agent or agents, servant or servants, by him employed for carrying any of the monies to be received for or on account of any of the duties herein mentioned, shall maintain any action or actions against any hundred or hundreds for or upon account of his or their being robbed on the king's highway of any of the said monies, unless the person or persons carrying, or accompanying the person or persons carrying such monies, shall at the time of such robbery be together in company, and be in number three at the least, to attest the truth of his or their being so robbed; any law, statute, or provision to the contrary thereof in anywise notwithstanding."

And see 45 Geo. III. c. 71, s. 1, *post*, 959, and 3 Geo. IV. c. 88, *post*, 961 to 969.

By 1 & 2 Wil. IV. c. 18, s. 1, reciting, "That the several persons who now act as receivers-general of the land tax and the respective duties of assessed taxes under the management of the commissioners for the affairs of taxes, in and for the several counties and divisions in England and Wales, (except as hereinafter provided,) shall, from and after the 10th day of October, 1831, cease and discontinue to execute and perform the duties of their respective offices in and for the counties and districts for which they now respectively act, and that their respective appointments as such receivers-general in the further receipt of the said duties shall thenceforth determine: provided always, that if, under local or particular circumstances, any difficulty shall arise to * the complete discontinuance of the whole of the before-mentioned officers at the time hereinbefore limited, it shall be lawful for the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland to retain and continue any one or more of the present receivers-general, under the provisions of the acts now in force, for such further and respective periods, and for such district and districts, circuit and circuits of receipt, as to the said commissioners may appear necessary or beneficial to the public service."

Sect. 2. "That in lieu and in the place of the receivers-general to be discontinued under this act, it shall and may be lawful to and for the said commissioners of his majesty's treasury for the time being to nominate and appoint from time to time such of the persons for the time being appointed to execute the offices and duties of inspectors of taxes to be officers or persons for the receipt of the land-tax, and of monies payable for the sale and redemption thereof, and the respective rates and duties of assessed taxes under the management of the commissioners for the affairs of taxes, within and for such counties, districts, and circuits of receipt as the said commissioners of the treasury shall from time to time authorize or direct; and it shall also be lawful for the said last-named commissioners to grant annual allowances to such receiving inspectors as a remuneration for executing and performing the additional duties imposed on them by this act, and for the expense of a clerk, not exceeding on an average the sum of 100*l.* for such remuneration, and a like average sum of 100*l.* for such clerk."

Sect. 3. "That it shall and may be lawful for the said commissioners of his majesty's treasury to retain and continue one of the present receivers-general for the city of London and county of Middlesex, and to appoint him receiver-general of a district or circuit of receipt, to be called 'The London Receipt,' and for other the purposes hereinafter provided, which London receipt shall comprise the city of London, the city and liberty of Westminster, the county of Middlesex, and such parts of the respective counties of Surrey, Essex, and Kent, as the said commissioners of the treasury shall from time to time direct; and it shall not be necessary for any person hereafter appointed receiver-general of such receipt to have previously executed the duties of or to be also an inspector of taxes."

Sect. 7. "That every inspector to be appointed for the receipt of the taxes and monies under this act, and every receiver to be retained or continued

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 99.

receiver-general to the commissioners of the districts.

Receiver-general not to maintain action against the hundred on being robbed, unless there are three persons in company.

The receivers-general to be discontinued from the 10th October, 1831, except in certain cases.

* *Sic.*
qu. from.

Appointment of inspectors of taxes to be officers for receipt for county districts.

Salary not to exceed on an average 100*l.* per annum, and 100*l.* for a clerk.

One receiver-general to be retained for the London district.

Receiving inspectors to make cir-

1. *The Acts relating to Management of Commissioners.*

1 & 2 Wil. 4, c. 18.

cuits for receipt from collectors.

Travelling expenses not to exceed those now allowed.

3 Geo. 4, c. 88.

Providing for remitters.

under this act, shall attend at such places, and observe such route in proceeding from place to place for the receipt of the taxes, rates, and duties aforesaid from the several collectors of the parishes, wards, or places within the district assigned to such officers respectively, and at such times, and from time to time, as shall be directed and approved by the said commissioners for the affairs of taxes: provided always, that the allowance for travelling and incidental expenses of every such officer in attending his receipt shall not in any case exceed the respective rates allowed to a receiver-general under the authority of an act passed in the third year of the reign of his late majesty king George the Fourth, intituled, 'An Act to amend the Laws relating to the Land and Assessed Taxes, and to regulate the Appointment of Receivers-General in England and Wales.' "

Sect. 8. "That it shall be lawful for the said commissioners for the affairs of taxes to make arrangements with any person or persons to receive from any receiving inspectors, or any receivers to be continued as aforesaid, the taxes, rates, and duties aforesaid to be from time to time collected by and paid to any such officer, or his deputy duly authorized in the manner directed and allowed by this act, and to remit and pay, or cause to be remitted and paid, the several sums by such person or persons to be received into the receipt of his majesty's exchequer at Westminster, or into the bank of England, or to the receiver-general of the London district, or to the commissioners for the affairs of taxes for the time being respectively, in such manner, at such time and times, and upon such terms and conditions as shall from time to time be settled and allowed by the said commissioners, under the directions of the said commissioners of his majesty's treasury; and also to arrange with the same or any other persons to receive from any collector or collectors of the taxes, rates, and duties aforesaid, all such taxes as shall remain in the hands of any such collector or collectors, or as shall be collected by him or them within the intervals of the circuits of receipt of the said officers respectively; and the names and places of receipt of the person or persons with whom such arrangement shall be made as last aforesaid shall be sent to the clerks to the said commissioners for their respective districts; and such commissioners shall from time to time examine such collectors touching their collections, and make such order or orders for the payment of the monies by them respectively collected and received as are directed and enjoined by the acts now in force relating to the respective rates and duties aforesaid."

Officer for receipt to execute duties in person.

Sect. 11. "That every officer for receipt to be appointed under this act shall execute the duties of his office in person, without any deputy, except in cases of illness, or other temporary and sufficient cause, in which the same may be allowed to a receiver-general under the provisions of the laws now in force."

Officers for receipt under this act to perform all the duties of receivers-general, &c.

Sect. 12. "That all and every the powers, provisions, rules, directions, clauses, liabilities, matters, and things contained in and imposed by any act or acts now in force relating to the land tax, and to the sale and redemption thereof, and the rates and duties of assessed taxes, or to the office of a receiver-general answerable in the receipt of the exchequer, or which by law any receiver-general is authorized, empowered, or required to do, execute, follow, and perform, shall, so far as the same are not altered or varied by this act, continue to be in full force, and be observed, followed, practised, applied, and put in execution by and against the several officers or persons appointed, retained, or continued for the receipt of the said taxes under this act, to all intents as if such officers respectively were appointed receivers-general in the execution of the said acts or of this act, and as if the same powers, provisions, matters and things were severally repeated and re-enacted by this act; and all inspectors so to be appointed officers for receipt as aforesaid shall also execute and perform the duties relating to the office of an inspector of taxes in all respects as if he had not been appointed an officer of receipt as aforesaid; and all provisions, powers, clauses, rules, directions, penalties, matters, and things contained in any such former act or acts shall be applied to this act, and be observed, followed, practised, and put in execution (where

Provisions of former acts to be in force and followed, except as herein varied.

not repugnant hereto) as fully and effectually, and to all intents and purposes whatsoever, as if this act had not been passed."

By 4 & 5 Wil. IV. c. 60, s. 12, "The lords of the treasury may appoint such of the distributors of stamps as they shall think proper to be officers for the receipt of the land-tax and assessed taxes within such counties, districts, or circuits as they shall direct."

By 5 & 6 Wil. IV. c. 20, s. 15, "If any person not duly authorized shall knowingly or wilfully take or receive from any collector of the land or assessed taxes any money arising from the said taxes collected or received by such collector, such person shall forfeit double the sum taken or received, to be recovered for the use of his majesty in the Court of Exchequer."

1. *The Acts relating to Management of Commissioners.*

4 & 5 W. 4, c. 60. Distributors of stamps to be appointed receivers of taxes.

5 & 6 W. 4, c. 20. Penalty on unauthorized persons receiving from collectors.

8. GENERAL PROVISIONS FOR ENFORCING THE ACT.

By 43 Geo. III. c. 99, s. 59, "That all constables, headboroughs, tithingmen, and other his majesty's officers, shall, and are hereby required and enjoined, to be respectively aiding and assisting in the execution of this act, and of every act or acts for granting duties to be assessed under the regulations of this act, and to obey and execute such precepts and warrants as shall be to them directed in that behalf by the respective commissioners hereby appointed, or any two or more of them."

Constables, &c., to be aiding and assisting in the execution of this act.

Sect. 60. "That if any person or persons shall, at any time hereafter, wilfully obstruct any assessor or assessors, collector or collectors, surveyor or surveyors, inspector or inspectors, in the due execution of his or their said office or offices, duty or duties respectively, such person or persons shall, for every such offence, forfeit the sum of 50*l*."

Persons obstructing officers to forfeit 50*l*.

Sect. 61. "That the said receivers-general, their deputy and deputies, surveyors, inspectors, and all other officers and persons who shall be employed in the execution of this act, or any act or acts for granting duties to be assessed under the regulations of this act, shall observe and follow such orders, instructions, and directions, as they shall from time to time receive from the said commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being."

Officers to follow such instructions, &c., as they shall receive from the commissioners of the treasury.

And see sect. 67, 68, *post*, 957.

9. RECOVERY AND APPLICATION OF PENALTIES, PROTECTION OF OFFICERS, &c.

By 43 Geo. III. c. 99, s. 62, "That one moiety of all pecuniary penalties and forfeitures imposed by this act, or any act or acts for granting duties to be assessed under the regulations of this act, may, if sued for within the space of twelve calendar months from the time of such penalties being incurred, in manner herein next mentioned, be to his majesty, his heirs and successors, and the other moiety thereof, with full costs of suit, to the person or persons who shall inform or sue for the same within the time aforesaid, except where any penalty is or shall be directed to be paid to the use of the poor of any parish; and all such penalties may be sued for in his majesty's Court of Exchequer at Westminster, for offences committed in England or Berwick-upon-Tweed, or in the courts of great sessions in Wales, for offences committed in Wales, by action of debt or information, wherein no essoign, protection, privilege, wager of law, nor more than one imparlance, shall be allowed; but nevertheless it shall be lawful for his majesty's attorney-general, in case it shall appear to his satisfaction that any penalty or forfeiture was incurred without intention of fraud, to stay all further proceedings in such suits or prosecutions, by entering a *noli prosequi*, or otherwise, with respect as well to the share of such penalty or forfeiture claimed by such informer or informers, as to the share thereof belonging to his majesty."

Application of penalties sued for within twelve months.

Attorney-general may stay proceedings.

Sect. 63. "That any such penalty or forfeiture shall be recoverable in the name of his majesty's attorney-general, on the part of his majesty, by information in the Court of Exchequer at Westminster; and in default of prose-

Recovery and application of penalties not sued for

1. The Acts relating to Management of Commissioners.

43 Geo. 3, c. 99.
within twelve months.

One moiety of penalties recovered for his majesty's use may be disposed of as the commissioners of taxes shall direct, in rewarding the persons giving the information.

Penalties not exceeding 20*l.* to be recoverable before two commissioners, and also penalties exceeding that amount, if directed to be added to the assessments.

Commissioners may mitigate penalties to one moiety thereof.

Informers may receive such proportion of the penalties as the commissioners shall certify to the commissioners of taxes.

Proceedings of commissioners not to be subject to revision, except where cases have been demanded, upon a surcharge, for the opinion of the judges.

Persons giving false evidence before commissioners, and convicted thereof, liable to the punishments for perjury.

cution within the time hereinbefore limited, no such penalty or forfeiture shall be afterwards recoverable in any other manner, in all which cases (except where the same is directed to be paid to the use of the poor of any parish or place) the whole of such penalty or forfeiture shall belong to his majesty, his heirs and successors; and that all penalties and forfeitures, and shares of penalties and forfeitures incurred as aforesaid, belonging to his majesty, his heirs and successors, shall be paid into the hands of the proper receiver-general or his deputy, to the use of his majesty, and that in all cases where the whole of such pecuniary penalty or forfeiture shall be recovered for the use of his majesty, his heirs, or successors, it shall be lawful for the commissioners for the affairs of taxes to cause such reward as they shall think fit, not exceeding one moiety of such penalty or forfeiture so recovered, after deducting all charges and expenses incurred in recovering the same, to be paid thereout to or amongst any person or persons who shall appear to them entitled thereto as informer or informers, in respect of such penalties or forfeitures, so recovered; anything herein contained to the contrary notwithstanding."

Sect. 64. "That all such pecuniary penalties not exceeding 20*l.* imposed by this act, or any act or acts for granting duties to be assessed under the regulations of this act, may be recoverable before two or more commissioners for executing this act; and also such of the penalties exceeding 20*l.* as are directed to be added to the assessment of the duties in any parish, ward, or place in the district where the offence shall be committed; and such commissioners shall take cognizance of such offence upon information or complaint in writing made to them, and upon a summons to the party accused to appear before the said commissioners at such time and place as they shall fix, or without such summons, in case the party or parties shall have been surcharged before the said commissioners, and shall have appealed against the same, and shall appear upon such appeal before the said commissioners; and such commissioners shall examine into the matter of fact, and proceed to hear and determine the same in a summary way; and, upon proof made thereof, either by voluntary confession of the party accused, or by the oath or solemn affirmation of one or more credible witness or witnesses, or otherwise, as the case may require, to give judgment for the penalty, or for such part thereof to which part thereof the said commissioners shall think proper to mitigate, the same not being in any case less than one moiety of such penalties, and to assess the same upon the party, and charge the same in the assessment to which the penalty adjudged shall particularly relate, and in addition to the duty, in case the party shall be charged therewith, and which penalties so adjudged shall be levied in like manner as the said duties, and the informer or informers shall in all such cases (except where the penalty is to be paid to the poor of any parish or place, in which case the receiver-general shall pay the same to the churchwardens or overseers of the poor of such parish or place, or one of them) be entitled to receive from the receiver-general one moiety of the amount of such penalties, in such shares, where two or more of them are concerned, as the commissioners for executing this act shall certify to the commissioners for the affairs of taxes they are respectively entitled to, and the said adjudication of the commissioners shall be final and conclusive to all intents and purposes, without power of appealing from the same; and the proceedings of the commissioners shall not be removable by any process whatever into any court of law or equity, or be subject to revision, except in such cases where a surcharge shall be made, and a case shall be demanded and stated for the opinion of one of the justices or barons of the superior courts, conformably to the directions contained in any act or acts, granting the duties to which such surcharges shall relate."

Sect. 65. "That if any person or persons upon any examination on oath or affirmation shall wilfully give false evidence, or make any false oath or affirmation or affidavit, or shall wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, before the commissioners for executing this act, or any of them, touching any matter or thing within the intent and meaning of this act, or any act or acts for granting duties to be

assessed under the regulations of this act,* shall be prosecuted for the same ; 1. *The Acts relating to Management of Commissioners.*
 every such person or persons being convicted thereof shall be subject and liable to the same punishment and disqualifications as persons are subject and liable to for wilful and corrupt perjury, by the laws and statutes of the realm of England."

Sect. 66. "That any indictment or information for perjury committed in any such examination, affidavit, or deposition whereon the same shall be made, shall and may be laid, tried, and determined in the county where the same shall be exhibited to the commissioners in pursuance of this act, or the said act or acts before mentioned."

Sect. 67. "That all and every the duplicates of the several books of assessments which have been or shall be made and delivered by the respective assessors of the said several duties, to the commissioners in any division or place, or to their respective clerks for the time being, and which are or shall be in the custody, keeping, or possession of such commissioners or clerks respectively, and all minute-books, and other public books and papers relating to the said several duties, in the custody, keeping, or possession of any such clerk or clerks, who hath or have been, or shall be removed from such office or offices, or in the custody, keeping, or possession of the executors, administrators, or other legal representatives of any person or persons who hath or have died, or shall die during his or their holding such office or offices, or after his or their removal from the same, or in the custody, keeping, or possession of his or their respective agent or attorney, or of any other person or persons whatsoever, shall be deemed, and are hereby declared to be the property of the commissioners of the said several duties, acting in the respective divisions or places, for the time being, and in succession, as records of and belonging to them the said commissioners, for their use and inspection, and shall be placed and deposited with and remain in the custody, keeping, and possession of them the said commissioners, or their respective clerks for the time being, or such other person as the said commissioners, or any two or more of them, for the time being, shall from time to time at their meetings order, direct, or appoint."

Sect. 68. "That all and every person and persons whatever, now or at any time hereafter, having in his or their custody, keeping, or possession, any such books or papers aforesaid, relating to the said several duties in this act mentioned, shall, within the space of one calendar month next after notice in writing, signed by three or more of the commissioners for the affairs of taxes (a true copy thereof being given to or left at the usual place of abode of such person or persons), deliver and give up all such books and papers, unto such person or persons as the said commissioners for the affairs of taxes by such notice shall order and appoint, whose receipt of the same shall be a good and sufficient discharge to such person or persons so delivering such books and papers ; and if any such person or persons now or at any time hereafter having in his or their custody, keeping, or possession, any such books or papers, shall refuse or neglect to deliver the same within the time limited by such notice, and demand made, he or they shall for every such offence forfeit and pay the sum of 50*l.* ; and all such books and papers shall be delivered by the person or persons so appointed to such of the commissioners for executing this act, as the said commissioners for the affairs of taxes shall think proper, for the effectual and speedy execution of the powers by this act granted."

Sect. 69. "That no such commissioner or commissioners, who shall be employed in the execution of this act, or any act or acts for granting duties to be assessed under the regulation of this act, shall be liable, for or by reason of such execution, to any of the penalties mentioned in this act, made in statute 25 Car. II. c. 2, s. 69, for preventing of dangers which may happen from popish recusants."

Sect. 70. "That if any action or suit shall be brought against any person or persons for anything done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, such action or suit shall be commenced within six calendar months next after the fact

43 Geo. 3, c. 99.

* Sic in act.

Indictment for perjury to be tried in the courts where the depositions shall be exhibited.

Books of assessments and all other books and papers relative to the duties declared to be the property of the commissioners of the districts for the time being, and in succession.

Persons having any books or papers relating to the duties, to deliver the same to such persons as the commissioners of taxes shall appoint, under the penalty of 50*l.*

Persons receiving the same to deliver them to such of the commissioners for executing this act as the commissioners of taxes shall direct.

Commissioners employed in the execution of this act not liable to the penalties in the 25 Car. 2.

Limitation of actions.

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 99.

One month's notice of action to be given to the party by the attorney for the plaintiff, containing certain particulars (a).

Defendant may tender amends, which, if not accepted, may be pleaded in bar of action.

Defendant may plead the general issue.

Defendant to have treble costs.

Actions brought against collectors to be defended by the commissioners of the district, and the costs and charges attending the same, and also any other actions to be brought by or against commissioners or collectors, to be defrayed by an assessment on the parish.

committed, and not afterwards, and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and no writ or process shall be sued out for the commencement of such action or suit, until one calendar month next after notice in writing shall have been delivered to, or left at the usual place of abode of such person or persons, by the attorney or agent for the intended plaintiff or plaintiffs, in which notice shall be clearly and completely contained the cause and causes of action, the name and place or places of abode of the intended plaintiff or plaintiffs, and of his or their attorney or agent, and no evidence shall be given on the trial of such action or suit of any cause or causes of action, than such as is or are contained in such notice; and the intended defendant or defendants to whom such notice shall have been delivered, may at any time before the expiration of such calendar month tender amends to the intended plaintiff or plaintiffs, his or their attorney or agent, and in case such amends are not accepted, may plead such tender in bar to any action or suit, to be brought against him or them, grounded on such notice, writ, or process; and the defendant or defendants in every such action or suit may plead the general issue, and also such tender, and any other plea, with leave of the court, in bar of such action or suit; and may give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their action or suit after the defendant or defendants shall have appeared; and if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in any other case to recover costs of law; and every such action or suit which shall be brought against any collector or collectors appointed under this act shall be defended by the commissioners acting for the division or place where such collector shall have been appointed, and the costs and charges attending the same, as also any other action or suit to be brought by or against commissioners or collectors in pursuance of this act, or for anything done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, shall be defrayed by an assessment made on the parish or place for which such collector or collectors shall have been appointed, in a just proportion to the amount of the duties payable under this act, on the respective persons charged to the same in the assessment to be made next after the time when the said costs and charges shall have been incurred."

SCHEDULE (A.)

"The form of the Oath required to be taken by Commissioners before they act in the execution of this act.

"*I, A. B., do swear, that I will truly, faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and authorities reposed in me as a commissioner, by an act passed in the forty-third year of the reign of King George the Third, intituled, 'An Act' [here insert the title of this act], or by any other act or acts, granting to his majesty any duties to be assessed under the regulations of the said act; and that I will judge and determine upon all appeals, and all other matters and things, which shall be brought before me as a commissioner under the said acts, or any of them, without favour or affection.*"

"So help me God."

(a) In *Umphelby v. M'Lean*, 1 B. & Ald. 42, assumpsit for money had and received brought to recover the amount of an excessive charge made by the defendants as collectors, on a distress for arrears of taxes: held, that the defendants were not entitled to a month's notice

before action brought, under the 43 Geo. III. c. 99, s. 70, which provides, that no writ or process shall be sued out for anything done in pursuance of that act, till after one month's notice. But see 4 B. & C. 200, *semble contra*.

SCHEDULE (B.)

"The form of the Oath or Affirmation required to be taken by Assessors before they act in execution of this act.

1. *The Acts relating to Management of Commissioners.*

43 Geo. 3, c. 99.

"I, A. B., do swear [or, affirm, as the case may require], that I will diligently execute the office of an assessor, to which I am appointed by authority of an act passed in the forty-third year of the reign of King George the Third, intituled, 'An Act' [here insert the title of this act]; and that, in the assessment which I am required to make by any other act or acts, granting to his majesty any duties to be assessed under the regulations of the said act, I will faithfully and honestly act, without favour or affection, according to the best of my skill and knowledge.
"So help me God."

The 45 Geo. III. c. 5, s. 1, after reciting, that "whereas by an act passed in the forty-third year of the reign of his present majesty, intituled, 'An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same,' the commissioners appointed to carry into execution the said act, and other acts to be executed under the regulations thereof, are required to possess certain qualifications therein mentioned, and to be resident in the district for which they act; and it is expedient to remove the said restrictions in the cases herein mentioned," enacts, "that the said acts shall not be construed to restrain any benchor of any of the inns of court from acting as such commissioner for such inn of court, and the inns belonging thereto, whether of law or equity; nor any of the officers who, by virtue of their offices, have heretofore acted in the execution of the land-tax act, from acting as such commissioner in the liberty of the palaces of Whitehall and St. James's; and no other qualification shall be required of any such benchor or officer aforesaid, than the possession of such places or offices respectively, and who respectively shall and may act therein, although they shall not be resident within the district for which they shall act."

45 Geo. 3, c. 5.
Benchers may act as commissioners for the inns of court; and officers acting in the execution of the land-tax may act as commissioners for Whitehall and St. James's.

Sect. 2. "That persons residing in either of the parishes of St. Clements Danes, St. Mary-le-Strand, or St. John the Baptist, in the liberty of the Savoy, parts thereof being situate in the county of Middlesex, and other parts in the city and liberty of Westminster, being specially named and appointed commissioners for the said county of Middlesex, or for the said city and liberty of Westminster, and being duly qualified as directed by the said first-mentioned act, may act as such commissioners for any or all of the divisions or districts within the said parishes, or any of them; anything in the said first-mentioned act contained to the contrary notwithstanding."

Persons residing in certain parishes may act as commissioners for Middlesex or Westminster for any division within such parishes.

N. B. The Third Section is expired.

The 45 Geo. III. c. 71, s. 1, after reciting, that "whereas it is expedient to amend the several laws relating to the duties under the management of the commissioners for the affairs of taxes in the particulars herein mentioned," enacts, "that every account of the monies received or paid by any receiver-general of the said duties, or any of them, or by his deputy or deputies in England, which shall hereafter be transmitted to the office for taxes according to the usage thereof, shall be verified on the oath or oaths of such receiver-general, or his deputy or deputies, to the best of his or their knowledge or belief, which oath may be administered by any commissioner acting in the execution of any of the acts relating to the said duties in the district where he shall so act; and such oath shall be deemed to be of the like force and effect, to infer pains and penalties, as any oath to be administered by commissioners in any matter relating to the execution of the said acts: saving always, to the barons and officers of his majesty's Court of Exchequer in England, and the commissioners for the affairs of taxes, their power respectively to administer such oaths according to ancient usage."

45 Geo. 3, c. 71.
Receiver-general's accounts, in England, may be verified on oath before commissioners of district.

1. *The Acts relating to Management of Commissioners.*

45 Geo. 3, c. 71.

Duplicates of assessments directed to be sent to the remembrancer (see 43 Geo. 3, c. 99, s. 46, &c.) shall be sent to Tax-Office, &c. Penalty for neglect, &c.

Sect. 2. "That the duplicates of the assessments directed by the said acts to be sent and delivered by the respective commissioners to the king's remembrancer in England, to be kept in his majesty's Exchequer, shall hereafter be sent by them to, and delivered at the office for taxes, for the previous inspection of the commissioners for the affairs of taxes, who may cause copies thereof, or any part thereof, to be taken, and who shall afterwards transmit such duplicates to the king's remembrancer for the purposes mentioned in the said acts; and if such duplicates shall not be so delivered within the time required by the respective acts in that behalf, the clerk to the commissioners who shall wilfully offend against the provisions of this act shall forfeit the sum of 50*l.*, to be recovered and applied as any penalty may be recovered and applied by any act relating to the said duties."

The Third Section enacts that the tax-office may order the receiver-general to repay money overpaid on assessment upon reversal of the determination of commissioners, upon a case stated for opinion of one of the judges.

48 Geo. 3, c. 55.

Allowances to receivers-general, collector, and clerks.

The 48 Geo. III. c. 55, s. 7, enacts, "that every receiver-general shall have an allowance of three halfpence in the pound for all monies which shall be by him received and paid into the receipt of Exchequer, or duly accounted for according to the course of his majesty's Exchequer; and that every collector shall have three-pence in the pound for what money he shall pay to the receiver-general or his deputy or deputies, within the time limited by the several acts herein mentioned, for all the duties granted by this act, save and except the duties granted and contained in schedule (L.) annexed to this act, for which other compensation is hereby directed to be made to such collector, and also for what money such collector shall pay out of such duties, except as aforesaid, to any person or persons in pursuance of any other act or acts of parliament, and shall duly account to such receiver-general or his deputy for such payments; and that for the careful writing and transcribing all and every the assessments, duplicates, warrants, and estreats, in due time, and for the due, speedy, and effectually executing all matters and things directed to be done or performed by or under the commissioners acting in the execution of the several acts relating to the duties contained in this act then in force, the clerk of the said respective commissioners who shall perform the same within the respective times limited by the said acts, shall, by warrant under the hands of two or more of the commissioners of each district respectively, have and receive from the respective receivers-general, their deputy or deputies, the respective sums hereinafter limited for every pound of all such monies of the said duties as he or they shall have received by virtue of the assessments of the said commissioners respectively, who is and are hereby appointed and allowed to pay the same accordingly; provided the said several acts be carried into execution in due time, and in an effectual manner, for the division in which he shall be appointed the clerk, and all warrants, assessments, estreats, and certificates, be made out and delivered according to the directions of the said acts, and the duplicates be delivered to the said receiver-general, and into the office of the commissioners for the affairs of taxes, within the times limited by the said acts; but not otherwise; that is to say, if the total amount of such allowance for one year, calculated at the rate of $1\frac{1}{4}d.$ in the pound, on the monies assessed in that year, and paid to the receiver-general or his deputy as aforesaid, shall amount to 100*l.* or upwards, then such clerk shall not be entitled to receive any further or greater allowance than at the rate of $1\frac{1}{4}d.$ in the pound, of the said monies so paid: provided also, that if the total amount of the monies of the said duties received by such receiver-general or his deputy for one year, in any district of commissioners, shall exceed 96,000*l.*, then the clerk of such district shall have an allowance at the rate of $1\frac{1}{4}d.$ in respect of every pound of the said 96,000*l.*, part thereof, and a further allowance at the rate of one half of $1\frac{1}{4}d.$ for every pound of the said monies exceeding 96,000*l.*; and if the total amount of such allowance, calculated at the rate of $1\frac{1}{4}d.$ in the pound on the said monies, shall not amount to 100*l.*, then such clerk shall be entitled to receive an allowance at the rate of $1\frac{1}{4}d.$ in the pound,

of the monies so paid ; so as that the allowance, calculated as last aforesaid, shall in no case be granted to any greater amount than 100*l.* per annum."

1. *The Acts relating to Management of Commissioners.*

By the 59 Geo. III. c. 118, s. 1, it is enacted, "that no person or persons becoming, or who shall have become bankrupt or insolvent, shall be liable to be assessed to the said duties after the 5th day of April next after the time of such bankruptcy or insolvency, in respect of any article or articles kept and used for the purposes of trade at or before the time of such bankruptcy or insolvency, which article or articles shall have been seized or surrendered, and *bonâ fide* sold under or by virtue of such bankruptcy or insolvency, and not kept or used by such bankrupt or insolvent after the 5th day of April next after such bankruptcy or insolvency: provided that nothing herein contained shall be construed to affect the payment by the assignee or assignees of every such bankrupt or insolvent, and such assignee or assignees shall pay the duties assessed on every such bankrupt or insolvent at the time of such bankruptcy or insolvency up to the 5th day of April next after the same shall have happened, as if this act had not been made."

59 Geo. 3, c. 118.

Persons not liable to assessments, after 5th of April which shall next happen after bankruptcy or insolvency, for articles kept and used for trade, and surrendered, &c.

Proviso for payments made by assignees.

3 Geo. 4, c. 88.

As to poundage to receiver-general to cease.

The 3 Geo. IV. c. 88, after reciting, that "whereas it is expedient to amend the laws relating to the land-tax and assessed taxes, and compositions for assessed taxes so far as respects the receipt and payment of the monies arising therefrom by the receivers-general in England and Wales;" enacts, "that so much and such parts of the several acts relating to the said taxes and compositions for assessed taxes, or either of them, which allow a compensation to each receiver-general in England and Wales, by a pound rate on the sums by him respectively paid into the receipt of his majesty's Exchequer, or which require the said receivers-general to appoint sufficient deputies to receive the said taxes, shall, from and after the fifth day of April, 1822, in respect of the assessments of the said taxes and the contracts of compositions thereafter made, be and the same are hereby repealed."

Sect. 2. "That every person who, after the fifth day of April, 1822, shall be appointed by his majesty, his heirs, or successors, or by the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them, to be receiver-general of the said taxes, or either or any of them, and any other taxes or sums of money under the care and management of the commissioners for the affairs of taxes; and every other person to be appointed by the said commissioners of his majesty's treasury to do or perform any part of the duty of any such receiver-general; and the several officers appointed or to be appointed by the said commissioners of his majesty's treasury, now or for the time being, or any three or more of them, for the survey and inspection of any of the said taxes; and all other persons appointed or to be appointed by the respective commissioners acting in the execution of the said acts, in the several counties, divisions, cities, towns, parishes, wards, and places, within England or Wales, shall severally and respectively observe and be subject to the rules and regulations set forth in this act, and the penalties therein contained; which rules and regulations shall be deemed a part of this act, as if the same had been severally inserted herein under special enactments."

Receivers and other persons, to be appointed under this act, to observe the rules herein mentioned.

"No. I.—Rules and Regulations touching the Office of Receiver-General."

"First.—Every receiver-general to be appointed as aforesaid shall be entitled to such annual salary, payable half-yearly by equal portions, as the said commissioners of the treasury for the time being, or any three or more of them, shall appoint, not in any case exceeding the sum of 600*l.* per annum, to be allowed to him out of any monies in his hands of the said taxes, by virtue of the warrant of the commissioners for the affairs of taxes for the time being, or any two or more of them."

Salary to receiver-general not to exceed 600*l.* per annum.

"Second.—Every receiver-general to be appointed as aforesaid shall be, on his first appointment, charged with the stamp duty payable by law on the bond to be given in such case, and every renewed or succeeding appointment of the same person shall be free of stamp duty; but such receiver-general shall not be required to renew his bond under each or any new or succeeding appointment, except in the case of any change in his security, or under circumstances that may render any such renewed bond necessary, under the directions of the said commissioners of the treasury, which

First appointment only liable to stamp duty.

1. *The Acts relating to Management of Commissioners.*

3 Geo. 4, c. 88.

Not to appoint a deputy without consent of Treasury, &c.

Route for receipt of taxes.

Allowances for travelling expenses.

When an office is required to be kept, an additional salary, &c., allowed.

Proviso.

Treasury may authorize contracts with persons to receive and remit monies.

Receivers not remitting, to pay monies to person appointed.

renewed bonds shall also be free of stamp duty; and such receiver-general shall not in any case be liable to or charged with any fee or gratuity on his commission, warrant, or other instrument to be obtained or had, either on his first appointment or on any renewed or succeeding appointment to the said office, nor to any fee or gratuity for any matter or thing incident to the execution of his office, or for auditing or passing his accounts either in his majesty's Treasury, the Office for Taxes, or in any office of the Court or Receipt of Exchequer."

"Third.—Every receiver-general to be appointed as aforesaid shall execute the duties of the said office in person, without any deputy or deputies, unless he shall be required or authorized, in cases of illness or other temporary or sufficient cause, to appoint a deputy or deputies with the approbation of the said commissioners of his majesty's Treasury, by the commissioners for the affairs of taxes."

"Fourth.—Every receiver-general to be appointed as aforesaid shall attend at such places, and observing such route in proceeding from place to place, for the receipt of the said taxes from the several collectors of the parishes, wards, or places within the limits assigned to him, and at such times, and from time to time, as shall be settled with him, and approved by the commissioners for the affairs of taxes: provided always, that it shall be lawful for the said commissioners of his majesty's Treasury, or any three or more of them, to allow every such receiver-general an allowance not exceeding 2s. per mile, and one guinea per day, for his travelling expenses when absent from home upon his quarterly or half-yearly receipt; and also a like allowance if travelling upon an extraordinary occasion, by the direction of the commissioners for the affairs of taxes: provided also, that whenever the said commissioners of the Treasury shall require any receiver-general to keep open an office daily or weekly, or on two or more days in each week, except Sundays and Christmas Day, for the receipt of the taxes of his district or any part thereof, it shall be lawful for the said commissioners of the treasury to assign an additional salary and allowance for the expenses incident to his said office, over and above the salary and allowance herein limited, to be paid out of the said taxes in manner hereinbefore directed: provided always, that an account of the salaries, allowances, or other emoluments, in any manner accruing to the receivers-general of the taxes under this act shall be annually laid before both houses of Parliament within twenty days after the meeting thereof."

"Fifth.—It shall be lawful for the said commissioners of the Treasury to contract or to authorize the said commissioners for the affairs of taxes to contract with any receiver-general, or any other person or persons, to remit the taxes collected and received, and paid to the receiver-general or his deputy, authorized as aforesaid, to be by such person or persons paid, or caused to be paid, into the receipt of his majesty's Exchequer at Westminster, at such time or times, and in such manner, as shall be specified in such contract; and also to contract in like manner with the same, or any other person or persons, to receive from the collectors residing within the limits specified in their respective contracts all such taxes as shall remain in the hands of any collector or collectors, or shall have been collected by him or them since the last circuit of receipt of the receiver-general or his deputy, or to be collected by any collector or collectors aforesaid, at any time or times in the same or succeeding quarter of the year, after the last half-yearly circuit of receipt, by any receiver-general or his deputy, upon such terms and conditions as shall be specified in such contracts respectively, of which contract or contracts the respective commissioners shall have notice, and from time to time shall make such order or orders for the payment of the monies from time to time collected or received by the respective collectors aforesaid, as by this act is directed (a)."

"Sixth.—It shall be lawful for every receiver-general who shall not contract to remit the taxes by him received into the receipt of his majesty's Exchequer, under the regulations prescribed by the said commissioners of his majesty's Treasury, to pay

(a) By stat. 1 & 2 Wil. IV. c. 18, s. 6, all bills and securities drawn for and on account of the land tax and assessed taxes, payable to the order of the commissioners of the affairs of taxes, and remitted to the said commissioners or the receiver-general for the London district, shall and may be indorsed by any two of such commissioners.

By sect. 8, the commissioners may make arrangements with any person to

receive from the receiving inspectors the taxes to be from time to time collected by them, and to remit the same into the receipt of the exchequer at Westminster, or into the bank of England, or to the receiver-general of the London district, or to the commissioners, in such manner, at such time or times, and upon such terms, as shall from time to time be settled by them under the directions of the lords of the treasury.

over the same to such person or persons as shall be authorized as aforesaid to pay the same in the receipt of Exchequer, and who shall attend such receiver-general for that purpose; and the receipt of such authorized person or persons, in duplicate, shall be a full discharge and acquittance to such receiver-general; and the first of every receipt in duplicate so given shall be transmitted to the commissioners for the affairs of taxes; and the second of every such receipt shall remain with the said receiver-general as his voucher in passing his accounts; and every such receipt shall be free of stamp duty."

"Seventh.—Whenever any receiver-general shall be required to keep open daily or weekly (except as before excepted) an office for the receipt of taxes within his district, it shall be lawful for such receiver-general, and he is hereby required, to fix the day or days for receiving the same from each collector whose place of residence shall be within ten miles of the said office, according to such course, order, and rotation, as shall be approved by the commissioners for the affairs of taxes, or any three or more of them; according to which rotation every such collector shall attend to make his payment, so that each such collector may attend four or a less number of days in each quarter of a year, or quarterly, as the commissioners of the district shall think expedient, and shall certify to the commissioners for the affairs of taxes according to the said course, order, and rotation; of which day or days of payment due notice shall be given to the respective commissioners acting in the execution of the said acts and this act; and where the residence of any collector or collectors within the district of any such receiver-general mentioned in this rule shall not be within the distance before mentioned, the receipts of the monies from time to time collected by them shall be held by the deputy of such receiver-general in the manner prescribed in this act in regard to other districts."

"Eighth.—All bonds, contracts, and securities, to be entered into with or taken from the receivers-general to be appointed, or with or from any other person or persons to be appointed under this act, and their respective sureties, to remit the monies arising by the taxes granted by the said acts, or any of them, or any other duties or sums of money under the management of the commissioners for the affairs of taxes, shall be to his majesty, his heirs, and successors, and entered into with and taken by the commissioners for the affairs of taxes, and shall be filed and kept in the office of the said commissioners; and no such bond, contract, or security, shall be entered or filed at any of the offices in the Court of Exchequer unless and until it shall be necessary to be made matter of record for the purpose of suing process at law in the said Court of Exchequer at Westminster, for the recovery of any penalty forfeited thereon, or any debt or duty owing thereon or against the person and effects of the parties bound thereby, their heirs, executors, or administrators respectively; in which cases the commissioners for the affairs of taxes shall cause the same to be delivered into the office of the king's remembrancer of the said court; and such delivery shall be deemed and be as valid and effectual as if the bonds, contracts, and securities, had been taken in one of the said offices, according to the course or practice of the said court heretofore used, to all intents and purposes whatsoever; and shall be applied and made use of in such and the like manner, in any suit, action, or process of law, on the said bonds, contracts, or securities, as if the same had been from the caption thereof respectively filed in the said court."

"No. II.—Rules and Regulations respecting the said Office, in relation to Assessed Taxes."

"First.—Every receiver-general to be appointed as aforesaid, and his deputy or deputies, except as after mentioned, authorized under this act, shall and is hereby respectively empowered and authorized, at the respective times appointed by the said acts and this act for the delivery of schedules of defaulters, to administer an oath to every such collector (or, being a person called a Quaker, a solemn affirmation), that he or they hath or have fully paid all the sums by him or them collected or received of or for the assessed taxes, and hath or have fully accounted for all sums not collected or received, in the schedule or schedules then delivered, and shall true answer make to all such questions as shall be demanded of him; and it shall be lawful for every receiver-general, or his deputy or deputies, authorized under this act, at the time of delivering such schedule or schedules, to examine each collector on any matters touching the sums collected and the sums in arrear, and the substance of the answer or answers which any collector shall give on such examination shall in his presence be reduced into writing, and read to him, with liberty to alter and amend the same in any particular; and every such collector shall write or sign his assent to the same in his own handwriting or sign, and in his usual manner of writing or signing the same."

1. *The Acts relating to Management of Commissioners.*

3 Geo. 4, c. 88.

Receivers keeping daily or weekly offices may appoint particular days of receipt by collectors.

Bonds, &c., to be to his majesty.

Receivers may examine collectors on oath.

Answers signed by collectors.

1. *The Acts relating to Management of Commissioners.*

3 Geo. 4, c. 88.

Collectors to account quarterly.

Receivers may report failures, &c., of collectors to the commissioners.

Proceedings by commissioners thereon.

Collectors to produce assessments to receivers, showing sums collected.

Collector neglecting his duty herein.

Penalty 50%.

Collectors not paying over monies.

"Second.—Every collector residing within ten miles of an office for the daily or weekly receipt of the said taxes, to be established pursuant to this act, shall once in every intervening quarter of a year, when required by the receiver-general of the district where such office shall be, account with the said receiver-general, and on his oath or affirmation be examined by such receiver-general, in the manner directed by the preceding rule, unless the accounts of the monies of the said taxes respectively received by such collector shall have been previously examined by the commissioners of the district, and the amount to be then paid to the receiver-general shall have been certified under their hands, and the certificate thereof delivered to the said receiver-general, as directed by this act."

"Third.—It shall be lawful for every such receiver-general, or his authorized deputy, as aforesaid, whenever he shall see occasion, to report to the commissioners acting in the execution of the said acts and this act, in any matter or thing touching the conduct of any collector or collectors aforesaid; and in every case where there shall be a failure of assessing or charging the duties in any parish, ward, or place, parishes, wards, or places, or of raising or paying the several sums respectively charged on any person or persons chargeable in such parish, ward, or place, parishes, wards, or places, or in the making out or returning any duplicates of assessments by their clerk, or of doing any other act required by the acts relating to the said taxes or by this act, to be done by such clerk, stating therein the particulars of his complaint against such collector or collectors, or other person or persons acting as aforesaid, and what in his opinion ought to be done therein; and whenever any receiver-general, or his authorized deputy, shall have reported to the commissioners acting for any parish, city, town, or place, or any ward, or other division, any matter or thing which in the opinion of such receiver-general, or his authorized deputy aforesaid, shall require the particular consideration of the said commissioners, it shall be lawful for them, and they are hereby required, to summon a meeting within a reasonable time after such report; of which meeting the receiver-general, or his authorized deputy aforesaid, shall have notice, and may and shall attend thereat, and assist in the consideration of the measures necessary and expedient to be taken in the execution of the said acts and this act."

"No. III.—Rules and Regulations respecting the Office of Collector of Assessed Taxes."

"First.—At each quarterly or half-yearly receipt of any receiver-general as herein mentioned, to be held next after the 10th day of October and the 5th day of April in each year, pursuant to the directions of this act, all and every the collectors and collector of the assessed taxes or the monies arising by compositions for assessed taxes, within the jurisdiction of such receiver-general, shall bring with him and produce to the receiver-general, or his deputy, the duplicate or duplicates of assessment, showing the respective sums by them or him collected and received, duly written off in the said duplicate or duplicates, or, instead thereof, a certificate signed by two or more of the commissioners of the district, stating the several sums collected and received, and the sums to be paid to the receiver-general or his deputy at the ensuing receipt, together with a full and true account, in writing, signed by such collectors or collector, in their or his usual manner of writing or signing their or his christian and surnames or name, of all sums of money by them or him collected for that year of assessment, and, on his oath or solemn affirmation aforesaid, true answer make to all such lawful questions as the said receiver-general or his deputy shall there demand of them or him touching the assessed taxes; and if any collector of the assessed taxes shall at any such half-yearly receipt neglect or refuse to bring with him and produce such duplicate or duplicates of assessment, showing the respective sums collected or received in manner aforesaid, or instead thereof a certificate, signed by the commissioners of the district aforesaid, together with an account in writing, signed by such collector in manner before directed, or shall refuse to take the oath or affirmation aforesaid, or to answer any lawful question or questions demanded of him by such receiver-general, or deputy authorized as aforesaid, or shall declare, in any answer by him made, any matter or thing which shall be false, every such collector shall forfeit and pay the sum of 50% to be sued for and recovered as any penalty may be sued for or recovered under the acts relating to the said taxes or any of them, together with all costs and charges attending the recovery thereof."

"Second.—Whenever any sum or sums of the monies collected and received under the authority of the said acts shall be detained in the hands of any collector or collectors, and shall not be duly accounted for to the receiver-general or his deputy at the receipt to be holden next after the same shall have been collected or received by him or them; and whenever any sum or sums of the arrears of taxes and monies so

collected or received shall be ordered to be paid by the respective commissioners of the district acting in the execution of this act, and shall not be paid on the day so ordered, every such collector shall forfeit and pay the sum of 50*l.*, and a further penalty at the rate of 5*l.* per centum per annum for the whole sum by him detained; and the amount of the said penalties shall be sued for and recovered in the manner hereinbefore directed, with all costs and charges." *1. The Acts relating to Management of Commissioners.*
3 Geo. 4, c. 88.

"Third.—If any collector of the said taxes shall, from and after the passing of this act, advance or lend to any person or persons any of the monies so by him collected or received, or if any such collector shall pay or apply any monies or any part of the said monies to his own use or purpose, or shall deposit or deliver over the same to any person or persons, so that the full sums or any part thereof to be raised under the said acts, according to the tenor and effect thereof, shall be withheld and not be paid to the receiver-general at the times on which the same ought to be paid according to this act, every such collector shall for every such offence forfeit and pay the sum of 50*l.* with all costs and charges, to be recovered in manner last aforesaid." *Penalty.*
Collector using public money.
*Penalty 50*l.**

"Fourth.—All schedules of defaulters to be delivered after the passing of this act, by any collector or collectors of the said taxes and composition monies, or any of them, shall be delivered to the several receivers-general, or their authorized deputies, on their receipt, after the 10th day of October and the 5th day of April, yearly, and at the time of such collector or collectors attending the receiver-general with an affidavit subscribed on the oath or affirmation of the collector or collectors in the manner directed by the said acts, and which oath or affirmation the said receiver-general, or their respective authorized deputies, are hereby respectively authorized to administer and subscribe; and any collector, neglecting to deliver any such schedule, duly verified as aforesaid, to such receiver-general or his deputy at the time, and on his receipt aforesaid, shall be subject to the like process as is provided for neglecting to deliver schedules under the said acts relating to the assessed taxes, and all such schedules respectively shall be delivered by such receiver-general or his deputy, to the respective commissioners, to remain in their hands during the same time as is allowed by the said acts relating to assessed taxes." *Schedule of defaulters to be delivered by collector to receiver-general.*
Collector neglecting his duty herein.
Proceedings.

"Fifth.—Every bond or other security to be given after the passing of this act, by the collector or collectors of the land-tax, to the respective commissioners acting in the execution of the act relating to the said tax, shall be free of any stamp duty whatever." *Bond given by collector free from duty.*

"Sixth.—Every collector shall receive from the receiver-general the poundage allowed to him under the said recited acts, unless the said commissioners of his majesty's treasury shall direct all or any portion of such poundage to be discontinued, and which the said commissioners are hereby authorized to do from time to time, and in such manner as shall appear to them expedient for the better execution of the provisions of this act." *Poundage to collector.*

"No. IV.—Rules and Regulations respecting the Offices of other Persons acting in the Execution of the said Acts."

"First.—It shall be lawful for the several commissioners acting in the execution of the said recited acts and of this act, in their respective divisions, and they are hereby required, whenever they shall have received notice, as directed by this act, of any receipt to be holden by the receiver-general of the monies collected and received within the limits of the district of the said commissioners respectively, and on or immediately before the day or days of receipt to be so holden, to call before them the respective collectors appointed for each parish or place, and to examine him or them upon solemn oath or affirmation, and assure themselves of all and every of the sum or sums of money and arrears of the said duties and compositions respectively that shall have been collected, or remain to be collected, and which shall be payable to the said receiver-general or his deputy, or such other person or persons as shall be authorized to receive the same under this act, at such ensuing receipt, and to make such order therein for the payment of the same to the receiver-general or his deputy, or other person or persons aforesaid, as they shall judge necessary; and the said commissioners shall thereupon cause to be delivered to every such collector a certificate of the sum to be so paid to the said receiver-general or his deputy, or other person or persons aforesaid, together with their order for the payment of such sum or sums as aforesaid, under the hands of the said commissioners, or any two of them, and which certificate shall be delivered by every such collector to the receiver-general or his deputy, or other person or persons aforesaid, at the time of his attending to make such payment of the monies by him collected and received; and the said commissioners shall enter every such certificate and order in a book, to be by them provided for that purpose; and it shall be lawful for the inspector and surveyor *Commissioners may call collectors before them previous to each receipt, and make orders for subsequent payments;*
and give certificate to collector of payment to be made by him.
Certificate, &c. entered.

1. *The Acts relating to Management of Commissioners.*

3 Geo. 4, c. 88.

Books of assessments made up. Proceedings thereon.

Commissioners empowered to seize and sell estates of collectors making default.

Notice of meeting for that purpose.

Proceeds of sale, how disposed of.

Commissioners may convey the estates so sold.

acting for the district of the said commissioners, at all convenient times, to inspect the said book, and take such extracts therefrom as shall be required by the said commissioners for the affairs of taxes."

"Second.—Whenever the respective commissioners shall have assigned and allowed any assessment of assessed taxes, and the days to be appointed for hearing appeals therefrom shall have elapsed, the clerk to the said commissioners shall cause to be numbered the pages in each book of assessment, and the sums assessed in each page to be duly cast up; and they shall forthwith, and before the next ensuing receipt for the said taxes, transmit to the receiver-general of the district, or his deputy, the total amount of the sum to be paid to such receiver-general by and for each parish, ward, or place in the respective districts, together with the names of the collectors appointed to collect and receive the same."

Sect. 3. "That if any collector or collectors of the said duties and sums of money aforesaid, or any of them, shall neglect or refuse to pay any sum or sums of money which shall be by him or them received as aforesaid, as in and by the said several acts, or by this act, is directed, and shall detain, in his or their hands, any money received by him or them, and not pay or account for the same in manner directed by the said acts or this act, the commissioners acting in the execution of the acts relating to the said duties, or any two or more of them, in their respective districts, are hereby authorized and empowered to imprison the person, and seize and secure the estate, as well freehold as copyhold, and all other estate, both real and personal, of such collector or collectors, to him or them belonging, or which shall have descended or come into the hands or possession of his or their heirs, executors, administrators, or assigns, wheresoever the same can be discovered and found; and the said commissioners who shall so seize and secure the estate of any collector or collectors, or any two or more of the commissioners acting as aforesaid in the same district, shall and are hereby empowered to appoint a time for a meeting of the commissioners for such division, city, town, or place, and then to cause public notice to be given of the place where such meeting shall be appointed, ten days at least before such meeting; and the commissioners of such division, city, town, or place, present at such meeting, or the major part of them, in case the accounts of such collector be not duly delivered, or the monies detained by any such collector or collectors be not paid or satisfied, as ought to be done, according to the directions of the said acts or of this act, shall be and are hereby empowered and required to sell and dispose of all such estates which shall be, for the cause aforesaid, seized and secured, or any part of them, to satisfy and pay into the hands of the receiver-general the sum that shall not be so accounted for, or shall be so detained in the hands of such collector or collectors, their heirs, executors, or administrators respectively, together with the reasonable costs and charges of recovering, raising, and paying the same, which costs and charges shall be ascertained and settled by the said commissioners, and the overplus (if any) shall be restored to the collector or collectors, or the person or persons entitled thereto."

Sect. 4. "That any two or more of the commissioners acting for the division in which the estate and effects of such collector or collectors shall be seized and secured as aforesaid shall be, and are hereby authorized and required to make conveyance of all such freehold and copyhold estates respectively; and in like manner to assign the leasehold and other personal estate of such collector, and all his right, title, or interest therein, at the time of such seizure, or at the time of the death of any collector so dying in default as aforesaid, to the respective purchasers thereof respectively, by deed indented between any two or more of the said commissioners; and such sales and purchases respectively shall be as effectual and valid, to all intents and purposes, against such collector, his heirs, executors, and administrators, and all persons claiming under such collector, in like manner as the sale of bankrupts' estates of the like nature, under and by virtue of the statute relating to bankrupts, or any of them, may be made by deed indented or enrolled, or by deed of assignment, according to the several natures of such last-mentioned estates: provided always, that such person or persons

to whom any such sale of copyhold lands shall be made, shall in like manner as the purchaser of the copyhold estates of bankrupts, before such time as he or they, or any of them, shall enter or take any profit of the said lands or tenements, agree and compound with the lords of the manors of whom the same shall be holden, for such fines or incomes as heretofore hath been most usual and accustomed to be yielded or paid therefore; and that, upon every such agreement or composition, the said lords for the time being, at the next court to be holden at or for the said manors, shall not only grant to the said vendee or vendees, upon request, the same copyhold or customary lands or tenements by copy of court-roll of the same manors, for such estate or interest as to them shall be so sold, and reserving the ancient rents, customs, and services, but also in the same court admit them tenants of the same copyhold or customary lands as other copyholders of the same manors have been wont to be admitted, and to receive their fealty, suit, or service, according to the custom of the court of such manor."

1. *The Acts relating to Management of Commissioners.*

3 Geo. 4, c. 88.

Purchasers of copyhold to compound with lords of manors for fines, &c.

Sect. 5. "That the several and respective persons who, for the time being, shall be commissioners for putting in execution the acts relating to assessed taxes and to the land-tax respectively, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put into execution the said acts, shall respectively be collectors, surveyors, inspectors, and inspectors-general, to put in execution this act, within the limits of their respective divisions, districts, and places, to which they are or shall be appointed; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution, in the like and in as full and ample a manner as they or any of them are or is authorized to put in execution the said acts, and all and every the powers and authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things, contained in any of the said acts (except where such provisions are varied, or other provisions are substituted by this act), shall, in collecting, levying, and accounting for the said duties and monies respectively, be severally and respectively duly observed, practised, and put in execution throughout Great Britain, in relation to all and every the duties and monies aforesaid, as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things, were particularly repeated and re-enacted in the body of this act, and applied to all and every such duties and monies aforesaid, as part of the provisions of this act."

Commissioners of assessed taxes and land-tax to be commissioners to execute this act.

Sect. 6. "That every appointment of clerk to the commissioners for executing the acts relating to the land-tax shall be made for the term and under the rules and regulations for the appointment, continuance, and removal of a clerk to the commissioners for executing the acts relating to the assessed taxes, as is provided by an act passed in the forty-third year of the reign of his late majesty king George the Third, intituled, 'An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same.'"

Appointment of clerk to the land-tax to be under the provisions of assessed-tax acts, 43 Geo. 3, c. 99.

Sect. 7. "That from and after the passing of this act, in every case where any account of a receiver-general of land or assessed taxes, to which any bond now or hereafter to be entered into to his majesty, filed of record in the Court of Exchequer, or to be taken by the commissioners for the affairs of taxes under the provisions of this act, shall relate, has been, or shall be stated and passed in the office of the said auditors or their deputy, and have been or shall be declared before a baron of the Court of Exchequer, and no balance shall appear to remain due on such account from any such receiver-general, the said auditors or their deputy shall, as soon as conveniently may be after such declaration, cause a certificate thereof to be made

Bonds of receivers general to be delivered up on accounts being balanced.

1. The Acts relating to Management of Commissioners.

3 Geo. 4, c. 88.

Certificate of account settled delivered to receiver-general, and by him to the Exchequer.

The office of certain receivers-general discontinued on the events herein mentioned.

Regulation for enrolling the accounts of receivers-general in the King's Remembrancer's Office only.

* *Sic* in act.

Such accounts may be enrolled in the Lord Treasurer's Remembrancer's Office, and the Pipe Office, in particular cases, as required by 1 & 2 Geo. 4, c. 121.

Compensation to officers of the Exchequer for loss of fees.

out and signed by them or him, and the total amount of the sums forming the charge and discharge parts of the said account, with the words 'Even and Quit,' shall be inserted in such certificate, and delivered to the said receiver-general; and every such certificate so made out and signed as aforesaid, and delivered into or lodged by the said receiver-general in the office of the king's remembrancer in the Court of Exchequer, or in the office of the said commissioners, shall be a sufficient authority to the officers of the said court and to the said commissioners having the custody of the bond of the said receiver-general, for the year to which the said certificate shall relate, to deliver up such bond to the said receiver-general or to his authorized agent in that behalf, a receipt for such bond being indorsed on such certificate, and signed by the party receiving the same."

Sect. 8. "That upon the death, resignation, or removal of any one of the receivers-general whose names are set forth in the schedule to this act annexed, marked with the letter A., the office of such receiver-general shall be discontinued, and it shall be lawful for the said commissioners of the treasury to consolidate the said vacant office with the office of the receiver or receivers of the rest of the county, or to add the same or any part or parts thereof to any adjoining district or districts of receipt as the said commissioners of the treasury shall think most beneficial to the collection of the said taxes."

Sect. 9. "That, from and after the passing of this act, one part only of the accounts of every receiver-general to be hereafter passed shall be made up and transcribed in the offices of the auditors of the said accounts, for the purpose of being presented for declaration before a baron of his majesty's Court of Exchequer, and which account shall be written on paper in the English language in common characters, and the several sums of money expressed therein shall be written and described in common numerals or figures; and every such account, after the same shall have been declared before a baron of the said court according to the usage thereof, shall be transmitted to the office of his majesty's remembrancer of the said court, and shall there be enrolled, as of record, in like manner in all respects as the part of any account transcribed on parchment hath heretofore been enrolled; and which enrolment herein directed shall be as valid and effectual for enabling the proceedings for the recovery of any balance and interest due or to become due thereon, and for all other purposes whatsoever in anywise concerning or relating to such accounts, as if the same had been also recorded in the offices of the lord treasurer's remembrancer and of the clerk of the pipe, according to the course of the Exchequer before the passing of this act: provided nevertheless, and * all and every the provisions contained in an act passed in the first and second years of the reign of his present majesty, intituled, 'An Act to alter and abolish certain Forms of Proceedings in the Exchequer and Audit Office, relative to Public Accounts, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain, and to render perpetual and amend an Act passed in the Fifty-fourth Year of his late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues,' so far as the same relate to the record and enrolment of any of the said accounts in the offices of the lord treasurer's remembrancer and of the clerk of the pipe respectively, in cases where such enrolments or records may be found necessary for the purposes in the said acts mentioned; and also so far as the provisions of the said acts relate to allowing compensation to the persons now holding the said offices of the lord treasurer's remembrancer and clerk of the pipe, for loss of fees or proportions of fees, in respect of enrolments of the receiver's accounts in the said last-mentioned offices, and of the effect of such enrolments; and also in respect of compensation to the said officers and to the king's remembrancer and other officers of the Court of Exchequer, for loss of fees or proportions of fees which they shall respectively sustain under the provisions of this act, shall and may be severally observed, practised, and followed, and applied to the provisions of this act and in the execution thereof, to all intents as if the said several provisions of the said last-mentioned act had been re-enacted

and incorporated in the body of this act, and particularly applied to the provisions of this act; anything hereinbefore contained to the contrary thereof in anywise notwithstanding."

Sect. 10. "That no receiver-general, or his authorized deputy, to be appointed under the provisions of this act, shall be required to travel in company with more than one person on each receipt respectively; and such receiver-general, or his authorized deputy, so travelling as last aforesaid, shall have the same remedies and advantages in his protection on his said receipt, to all intents, as if he had travelled in company with two or more persons, in the manner directed by the said acts; anything in the said recited acts contained to the contrary notwithstanding."

Sect. 11. "That this act may be altered, amended, or repealed, by any acts to be passed in this present session of parliament."

1. *The Acts relating to Management of Commissioners.*

3 Geo. 4, c. 88.

Receiver-general not required to travel in company with more than one person on each receipt.

Act may be altered, &c., this session.

"SCHEDULE (A.) to which this Act refers.

Berks	W. B. Simonds, E. Golding.
Bucks	G. R. Minshull, W. H. Hanmer.
Devon	J. J. Fortescue, Sir J. Duntze.
York	R. R. Milnes, R. Creyke.
Essex	R. Andrews, C. Round.
Kent	Sir William Twysden, G. W. H. D'Aeth.
Lancaster	G. Case, E. Falkner.
Lincoln	Sir R. Fyde, R. Claypon.
Norfolk	Sir R. J. Harvey, W. Fisher.
Northampton and Rutland	E. Boodle, John Beauclerk.
Somerset	J. Allen, Hon. G. Poulett.
Isle of Wight	W. Hearn.
Suffolk	O. R. Oakes, D. E. Davy.
Surrey	R. Smith, T. Page.
Warwick	W. Little, C. Fetherston.
Wilts	W. Bowles, J. Awdry.
Monmouth	R. Lascelles.
Glamorgan	H. Hollier."

Forms.

Forms of Information, Summons, and Conviction, against a Collector of Taxes, for neglect of duty, on the 43 Geo. III. c. 99, s. 16, *ante*, p. 935, and 3 Geo. IV. c. 88, s. 2, No. III. *First*, and 3 Geo. IV. c. 23.

1. Information.

County of } The information and complaint of A. B., of , in the parish
 of , in the county of , Esq., made on oath before us,
 E. F. and G. H. Esqs., two [or, me, I. K. Esq., one, &c., according to the
 3 Geo. IV. c. 23, s. 2] of the commissioners for executing in the said county the
 several acts relating to the duties of assessed taxes, appointed to act as such
 commissioners [or, commissioner, as the case may be] in the district [or as the case
 may be] of , in the said county, on the day of , in the year of
 our Lord one thousand eight hundred and ; who says that L. M., of the
 parish of , aforesaid [yeoman], being one of the collectors of taxes duly
 appointed in and for the said parish of , in the said county, from the
 [fifth] day of [April], one thousand eight hundred and , to the [fifth] day
 of [April] following, and having taken upon himself the said office, did neglect
 his duty as said collector; for that he, the said L. M., on, &c. [state the facts
 complained of, following as nearly as possible the words of the statute which created
 the offence, and showing such offence], contrary to the statute in that case made
 and provided; for which offence, and by which neglect of duty, he, the said
 L. M., hath forfeited a sum not exceeding 20*l.*, to be distributed as the statute
 directs. Whereupon the said A. B. prays the judgment of us [or, two of],

1. Information.

Forms.

the said commissioners of taxes in the premises, and that the said L. M. may be summoned to answer the premises before us [or, two of], the said commissioners. Exhibited and sworn before us, E. F. and G. H. A. B. [or, me, I. K., as the case may be].

2. Summons thereon.

2. Summons
thereon.

County of } To L. M., of , in the parish of , in the county of .

Whereas information and complaint have been made before me, I. K., Esq., one [or, if before two commissioners, say, us, E. F. and G. H., Esqs., two] of the commissioners for executing the several acts relating to the duties of assessed taxes, and appointed to act as such commissioner [or, commissioners, as the case may be] in the district of , [or as the case may be], in the said county, upon oath by A. B., of , within the parish of , in the county of , Esq., for that you, the said L. M., being one of the collectors of taxes duly appointed in and for the said parish of , from the [fifth] day of [April], one thousand eight hundred and , to the [fifth] day of [April] following, and having taken upon yourself the said office, did neglect your duty as such collector; for which you, the said L. M., on, &c. [here set forth the charge as in the information]; for which offence, and by which neglect of duty, you, the said L. M., forfeited a sum not exceeding 20l., to be distributed as the statute directs: these are to require you, the said L. M., to appear before me [or, us, as the case may be], and such other of the said commissioners for executing the said acts relating to the duties of assessed taxes as shall be present at , in , in the said county, on , the day of next, at the hour of in the [forenoon], to answer to the said information and complaint, and to be further dealt with according to law. Given under my hand [or, our hands, as the case may be], this day of , in the year of our Lord one thousand eight hundred and . I. K.

3. Conviction.

3. Conviction
thereon.

County of } Be it remembered, that on the day of , in the year of our Lord one thousand eight hundred and , at , in the county of , A. B., of , within the parish of , in the county of , Esq., personally came before me, I. K., Esq., one [if the information were laid before one commissioner, according to the 3 Geo. IV. c. 23, s. 2, to summon before two, or, if laid before two, say us, two] of the commissioners for executing in the said county the several acts relating to the duties of assessed taxes, appointed to act as such commissioner [or, commissioners, as the case may be] in the district of , [or as the case may be], in the said county, and exhibited an information on oath before the said commissioner [or us, as the case may be], that L. M., of the aforesaid parish of , [yeoman], being one of the collectors of taxes duly appointed in and for the said parish of , from the [fifth] day of [April], one thousand eight hundred and , to the [fifth] day of [April] following, and having taken upon himself the said office, did neglect his duty, for that he, the said L. M. [here set forth the charge as in the information], contrary to the form of the statute in such case made and provided: whereupon the said L. M., after being duly summoned to answer the said charge, appeared before us, E. F. and G. H., Esqs., two of the commissioners for executing the several acts relating to the duties of assessed taxes in the county and district aforesaid, on the day of instant, at , in the said county, [or, if he neglects to appear, the form must be varied accordingly, see title "Convictions," Vol. I.]; and, having heard the charge contained in the said information, declared that he was not guilty of the said offence [or, if he pleads guilty, the form must be varied accordingly, see title "Convictions," Vol. I.]; whereupon we, the said commissioners last named, did proceed to examine into the truth of the said charge contained in the said information, and, on the day of , at the parish of , aforesaid, one credible witness, to wit, N. O., of , in the said county [labourer], upon his oath, deposeth and saith to and before us, in the presence and hearing of the said L. M., that within months next before the said information was made before the said commissioner [or, commissioners, as the case may be] before named by the said A. B., to wit, on , the day

of last, he, the said N. O. [here state the evidence, and, as required by 3 Geo. IV. c. 23, as nearly as possible in the words used by the witness, and if more than one witness be examined, state the evidence given by each; then state that the defendant was called upon for his defence, and state the same, and evidence, if any]. Therefore, it manifestly appearing to us that he, the said L. M., is guilty of the offence charged upon him in the said information, we do hereby convict him of the offence aforesaid, and do declare and adjudge that he, the said L. M., hath forfeited the sum of 20l. of lawful money of Great Britain for the offence aforesaid, but which said penalty we have mitigated to 5l., to be distributed according to the form of the statute in that case made and provided: that is to say, one moiety of the amount of the said penalty to the use of his majesty, and the other moiety to the said A. B., who informed the said commissioner [or, commissioners] of the said offence, to be paid to the said A. B. by the receiver-general for the said county of , and we do hereby assess the said sum of [5l.] upon the said L. M., and charge and require the same to be charged in the assessment of the said parish of , according to the directions of the statute, to be levied in like manner as the duties of assessed taxes; and which adjudication and assessment we do hereby certify to the commissioners of taxes, as the act directs. Given under our hands and seals, at , in the said county, this day of , in the year of our Lord one thousand eight hundred and .

E. F.

G. H.

See further acts, 1 & 2 W. IV. c. 18; 4 & 5 W. IV. c. 60; 5 & 6 W. IV. c. 20.

II. The Acts regulating the Assessments and Collections, &c. (a).

[48 Geo. III. c. 141; 50 Geo. III. c. 105.]

These several provisions may be arranged under the following heads:—

1. *Of the Appointment of Assessors, and when Collectors may act in their place.*
2. *Of Services of Notices.*
3. *Of Certificates of Assessment and Estimates.*
4. *Of Surcharges.*
5. *Of Account for Duties received.*
6. *Of the Inspectors-General.*

The 48 Geo. III. c. 141, s. 1, after reciting, that “whereas it is expedient that certain of the powers and provisions for assessing and collecting the duties under the management of the commissioners for the affairs of taxes in Great Britain, should be varied and amended in the particulars hereinafter mentioned,” enacts, “that from and after the period appointed for the commencement of the rules contained in this clause, all appointments of assessors shall be made, and also all notices required to be assessed on any place, or to be delivered to or served on any person or persons for the purpose of returning or estimating the said duties respectively, shall be affixed, delivered, or served, and all assessments of the said duties, or any of them, shall be returned, estimated, ascertained, and made, and the said duties shall be collected, levied, paid over, and accounted for, under and subject to the following rules and directions, which shall be deemed a part of this act, as if the said rules and directions had severally and respectively been inserted herein under a special enactment.”

Assessors shall be appointed, and duties assessed according to the following rules.

(a) See general division of the subject, *ante*, p. 927.

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3, c. 141.

Assessors shall be appointed before the 6th of April, yearly.

In default of such appointment, assessors for former years shall act.

In certain cases the collectors last appointed shall act.

Assessors liable to penalties for refusing to act.

In certain cases surveyors shall act.

Attendance of assessors to proceed in executing acts.

No. I.—Rules and Directions for appointing Assessors of the Duties under the Management of the Commissioners for the Affairs of Taxes, after the Expiration of the Year 1808.

“First.—It shall be lawful for the respective commissioners acting in the execution of the several acts relating to the said duties respectively, and they are hereby respectively required to appoint assessors for each parish, ward, and place within their respective divisions, before the commencement of each year for which such appointment shall be made, and to do and complete all acts necessary to such appointment, so that the assessors to be appointed may enter on their office on the 6th day of April in each year, pursuing, in all other respects, the directions contained in the said acts respectively in relation to such appointments; which appointments shall be and continue for and during the year to commence on that day, and until other assessors shall be appointed for the same parishes, wards, and places, and for the same duties respectively.”

“Second.—In and for every parish, ward, or place, wherein assessors shall not be appointed before the 6th day of April in each year, to serve for the year ensuing as aforesaid, the last appointment of assessors for the same parish, ward, or place (whether such appointment shall have been or shall be made under any of the acts in force at the time of passing this act, or under this act), shall continue in force until other assessors shall be appointed for the same parish, ward, or place, and for the same duties respectively, according to the directions of the said acts.”

“Third.—In case the assessor or assessors appointed for any former year shall be dead, or be removed from, or be otherwise unfit or incapable to act for the parish, ward, or place for which he or they shall have been appointed, and in default of such appointment of assessors as aforesaid for the year ensuing for the same parish, ward, or place, and for the same duties respectively, then and in every such case the last appointment of a collector or collectors of the same duties for such parish, ward, or place (whether such appointment shall have been or shall be made under any of the acts in force at the time of passing this act, or under this act), shall continue in force until assessors shall be appointed for the same parish, ward, or place, and for the same duties respectively, according to the directions of the said acts; and every such collector shall, in every such case, during such continuance in his office of collector, do, perform, and execute all such matters and things as are directed by the said acts or this act to be done, performed, or executed by assessors; and all parts of the said acts or this act relating to and applied to assessors shall in every such case be construed as applicable to, and be in like manner, and to the like intent, applied to such collectors; and the powers contained in the said acts or this act shall be as fully and amply exercised and practised by such collectors as if the same powers had been expressly given to the said collectors by the said acts or this act.”

“Fourth.—All penalties imposed by any of the acts in force at the time of passing this act, on assessors, for refusing or neglecting to take upon themselves the office of assessor, or to perform their duty therein as prescribed by the said acts respectively, shall be in the like cases imposed on assessors appointed according to this act, for neglecting to take upon themselves the office of assessor, or to perform their duty as prescribed by this act; and every such collector as aforesaid, on whom the duty of assessor shall have devolved in pursuance of this act, shall be subject and liable to the like penalties for the like neglect of duty.”

“Fifth.—In every parish, ward, or place, where assessors shall not be appointed in pursuance of this act, or, being appointed, shall not have taken upon themselves the office on or before the commencement of the ensuing year, or where the assessors or collectors for any former year, on whom the duty of assessor shall have devolved, shall not have taken upon themselves the office of assessor on or before the commencement of such ensuing year, it shall be lawful for the surveyor of the district, and he is hereby required, to execute the duty of assessor for such parish, ward, or place, until assessors shall be appointed who shall duly take upon themselves the said office.”

“Sixth.—In every notice of continuance in office of any assessor or collector, the respective commissioners who shall cause such notice to be given shall require the attendance of such assessor or collector on a day and at a place within the division to be named in such appointment or notice, then and there to receive and take charge of all such notices and papers as shall be delivered to them respectively, for the due execution of the said acts, in manner hereinafter mentioned, which day shall not be later than seven days after the 5th day of April in each year; and, in default of such notice being given by such commissioners, it shall be lawful for the inspector or surveyor of the district to give such notice, and to require the attendance of such

assessors or collectors on a day and at a place within the division to be named by the said inspector or surveyor for that purpose."

"No. II.—Rules and Directions for Service of Notices to Persons liable to be charged to the said Duties, or any of them."

2. *The Acts regulating the Assessments and Collections, &c.*

"First.—All notices relating to the said duties, or any of them, requiring to be affixed on any place, or to be delivered to or otherwise served on any person or persons for the purpose of returning or estimating the said duties respectively, shall be delivered by the respective surveyors of the district in which such notices are required (or by the inspectors for the same districts, or by any other inspectors or surveyors of the same duties, duly authorized to take charge of such districts respectively, by or under the commissioners for the affairs of taxes, or any three or more of them) to the respective assessors appointed or acting in pursuance of this act, or to the respective collectors on whom the duty of assessor shall have devolved as aforesaid, for the purpose of serving the same on the respective persons liable to the said duties, in the manner required by the said acts."

48 Geo. 3, c. 141. Surveyor shall deliver notice-papers to assessors.

"Second.—All such notices shall be delivered to such assessors or collectors as aforesaid, on or as soon after the 6th day of April in each year as the same can be done; and the delivery of such notices by such inspectors or surveyors, or any of them, shall be as effectual as if the same had been delivered by the commissioners of the division according to the directions of the said acts."

Time of delivery.

"Third.—The said assessors and collectors respectively are hereby required to observe such directions as may from time to time be given to them by the said inspectors and surveyors, in all matters touching the time and manner of fixing or delivering or otherwise serving such notices, and the persons on whom the same are to be served, such directions having been previously seen and allowed by the commissioners acting for the division in which the said inspector or surveyor shall act."

Assessors and collectors shall observe the directions of inspectors and surveyors.

"No. III.—Rules and Directions for making and returning the Certificates of Assessment, or Certificates of Estimates, by Assessors acting under the said Acts, and for making and collecting the First Assessments in each Year."

"First.—The assessors of the said respective duties shall deliver their certificates to the respective commissioners on or before the day which such commissioners shall appoint for that purpose yearly, which day so to be appointed for the delivery of the certificates of assessment of the duties of assessed taxes shall not be later than the 20th day of June in each year of assessment; and the day to be appointed for the delivery of the certificates of estimates of property, or profits of professions, trades, and offices, shall not be later than the 20th day of July in the same year, on which days respectively the said assessor shall also deliver to the respective commissioners all the returns or statements relative to the said respective duties made to the said assessors before the respective days so appointed; and all the returns and statements made by the parties to be charged, which shall be delivered after that day, shall be delivered to the respective commissioners."

Time of delivering certificates of assessment.

"Second.—In all cases relating to the duties of assessed taxes, where the assessor or assessors shall not have received any return from any person or persons liable to be charged to the said duties, it shall be lawful for such assessor or assessors, and he and they is and are hereby required, to make a true assessment on such person or persons, to the best of his or their information and judgment, of the real charge which ought to be imposed; and in all cases relating to the duty on property, professions, trades, and offices, where the respective assessors shall not have received any statement from any party or parties liable to be charged to the said duties, it shall be lawful for the said assessor or assessors to estimate the property of such parties respectively, and the profits arising from any professions or trades exercised, or any offices held by such parties respectively, according to the best of his or their information and judgment; and in case the said assessor or assessors shall not so estimate the property or profits of any such party or parties who shall not have made a return for that year, then such assessor or assessors shall return to the said commissioners the name and place of residence of every such party; and where the respective commissioners shall also not have received any statement, it shall be lawful for the said respective commissioners to make an assessment on such party or parties either in the same sums respectively, and to the same amount, as the said parties respectively were charged in the last assessment of the said duties for the said division, or according to the best of their judgment, subject to alteration by appeal or surcharge, in the manner directed by the acts relating to the said duties."

For making assessments in default of return.

2. The Acts regulating the Assessments and Collections, &c.

48 Geo. 3, c. 141.

First assessment shall be made without including matters of surcharge.

Times of collection.

Time of delivery of duplicates of first assessments.

Regulating appeals, as to the time of entering them.

Time of hearing appeals.

"Third.—The first assessments to be made of the said duties or any of them, for any year, shall be made according to the estimates or returns and assessments mentioned in the preceding rule, without including therein any matters of surcharge by the inspectors or surveyors; which first assessments respectively shall be separately and distinctly collected, and shall be contained in the first duplicates to be delivered to the collectors and surveyors for that year, and shall be collected and levied in moieties on the days hereinafter mentioned; that is to say, one moiety of the duties of assessed taxes, if not sooner paid or satisfied according to the directions of the said acts respectively, shall be collected or levied before the 10th day of October, in each year of assessment, or within twenty-one days thereafter, and the other moiety thereof before the 5th day of April following, or within twenty-one days thereafter; and one moiety of the duties on property, professions, trades, and offices, if not sooner paid or satisfied as aforesaid, shall be collected, levied, or paid before the 5th day of January in each year of assessment, or within twenty-one days thereafter, and the other moiety thereof before the 5th day of July following, or within twenty-one days thereafter: provided always, that nothing herein contained shall be construed to alter the times or proportions at which the said duties are payable, according to the directions of the said acts respectively, or in any way to impeach or affect the powers or provisions of the said acts for the recovery of the said duties at such times and in such proportions as are therein prescribed, and the said respective duties shall be deemed payable quarterly at the times mentioned in the said acts, by four instalments; and it shall be lawful to demand, receive, or levy the same according to the said acts, any thing herein contained to the contrary notwithstanding."

"Fourth.—In order that due time may be given for hearing appeals against such first assessments, the respective commissioners are hereby required and strictly enjoined to deliver, in all cases relating to the duties of assessed taxes, their first duplicates thereof to the respective collectors on or before the 20th day of July in each year, with directions to cause public notice thereof to be given in the parish, ward, or place to which such duplicates relate, to which duplicates in the hands of such collectors all persons interested shall have access, and may examine the same at any reasonable time in the day-time; and in all cases relating to the duties on property, professions, trades, and offices, the respective commissioners shall, as and when they shall make an assessment on any person or persons, cause a notice thereof to be given in the manner directed by the acts relating to the said last-mentioned duties, to the party or parties charged in and by such assessment, within the space of three days after making such assessment, and so from time to time, until all such assessments shall be made, in which certificates shall be inserted the times limited for hearing the appeals therefrom."

"Fifth.—All appeals against such first assessments shall be entered, and due notice thereof be given within the respective times hereinafter limited; that is to say, in all cases relating to the duties on assessed taxes, within twenty-eight days after the delivery of the duplicates of the first assessments to the respective collectors of the parishes, wards, or places, for which such assessments shall be made; and in all cases relating to the duties on property, professions, trades, and offices, within fifteen days after the date of the notice of such first assessment, to the party or parties charged therewith."

"Sixth.—All appeals against such first assessments of the duties of assessed taxes, in any year, shall be heard and determined between the 20th day of August and the 10th day of September following; and on such day or days, within the time herein limited, as the commissioners of the division shall appoint, whereof they are hereby required to give notice in the manner in which such notices have usually been given in the several parishes, wards, and places in their division; and all appeals against such first assessments of the duties on property, professions, trades, and offices, in any year, shall be heard and determined as soon after notice thereof shall be given to the respective commissioners as conveniently can be done, and for that purpose the said respective commissioners, or two of them at the least, shall meet together within eight days after any such notice of appeal shall have been received by them, and so from day to day or from time to time, at reasonable intervals, with or without adjournment, until all appeals against such first assessment shall be heard and determined, of which day or days of appeal the said respective commissioners shall cause notice to be given to the respective appellants; provided always, that in every case where the party assessed shall be prevented from appealing within the time herein limited, or from attending in person at the time limited for hearing the appeal of such party by absence or sickness, or other sufficient cause, to be proved before the respective commissioners on the oath or solemn affirmation of the party,

it shall be lawful for the respective commissioners to enter such appeal after the time herein limited, or to postpone the hearing thereof for such reasonable time as shall be necessary, so that no delay shall be thereby occasioned in the payment or collection of the sums contained in the said first assessment." *2. The Acts regulating the Assessments and Collections, &c.*

"Seventh.—The said respective commissioners shall cause to be delivered to the respective collectors their duplicates of the first assessment, including in such duplicate as well all such matters as have been appealed against and determined by the said commissioners, as all such matters as have been assessed and not appealed against; and all such duplicates shall be delivered within the respective times hereinafter limited; that is to say, the duplicates of the duties of assessed taxes on or before the 20th day of September yearly, and the duplicates of the duties on property, professions, trades, and offices, on or before the 20th day of December yearly, to which duplicates respectively warrants shall be annexed for collecting the duties therein contained, within the times respectively before prescribed." *48 Geo. 3, c. 141. Time of delivering duplicates of first assessment.*

"Eighth.—All such assessments which shall not have been made on or before the 20th day of September, in respect of the duties of assessed taxes, and the 20th day of December, in respect of the duties on professions, trades, and offices, or against which any appeal shall be depending on those days respectively, shall, on the making or determining the same from time to time, be added to such first assessments and to the respective duplicates thereof; and the duties therein, or the moieties thereof which ought to have been previously collected or paid, shall be collected, levied, or paid, on or before such day or days as the respective commissioners shall order by their warrant annexed to the duplicates of such added assessments, such day not being later than twenty-one days after the making such assessment, or determining the appeal thereon." *Cases not then determined to be added to first assessment.*

"Ninth.—Whenever any assessment of the duties on professions or trades shall be made within the time herein limited, under a number or letter, the same shall be included in, or from time to time added to such first assessments, and the said duties shall be paid either into the Bank of England, or to the receiver-general or his deputy, in the like proportions as aforesaid, on or before the day or days herein appointed for collecting such duties by the respective collectors, and the said commissioners shall direct and order the same to be paid accordingly; and in default of such payment the said respective commissioners shall cause the said assessments to be added to the duplicates in the hands of the respective collectors to whom the collection of the duties assessed on persons by name shall have been intrusted to be collected, by the same ways and methods, and under the like powers and provisions, as such last-mentioned duties are directed to be collected." *Assessment under a number to be added to first assessment, if not paid to receiver, or into the Bank.*

"No. IV.—Rules and Directions for making and collecting the *Supplementary Assessments in each Year.*"

"First.—If any inspector or surveyor shall have surcharged any person or persons for any matter or thing for which a surcharge is allowed by the acts relating to the said duties respectively, it shall be lawful for such inspector and surveyor to deliver his or their certificates of surcharge, explicitly stating the particulars in respect to which such surcharge has been made, to the respective commissioners in respect of the duties of assessed taxes, at any time on or before the 15th day of December in each year of assessment for the whole of such year, and in respect of the duties on property, professions, trades, and offices, at any time after the time herein prescribed for making the first assessments of the said duties for that year, and from time to time until the commissioners shall have completed all the assessments of their division for that year, and shall have delivered, in the manner directed by the said acts, the duplicates thereof, and the same shall have been entered of record in his majesty's Exchequer, which certificates of surcharge shall be signed and allowed by two of the respective commissioners, under the restrictions, and subject to appeal under the conditions prescribed by the said acts respectively." *Time of making surcharges.*

"Second.—All appeals against such surcharges relating to the duties of assessed taxes shall be heard and determined by the commissioners of the division, or any two or more of them, between the 20th day of January and the 20th day of February following; and all appeals against such surcharges relating to the duties on property, professions, trades, and offices, shall be heard and determined according to the directions of this act before prescribed, in respect of appeals against the first assessments of the same duties by the respective commissioners: provided always, that in every case where the party surcharged shall have been prevented by absence or sickness, or other sufficient cause, to be proved before the respective commissioners on the" *Time of making appeals from surcharges.*

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3, c. 141.

Supplementary assessments to be made on the surcharges after appeals.

Supplementary assessments to be paid on the last instalment of the duties on the first assessments.

Assessments not completed within the time limited shall be collected in one sum.

Penalty on vexatious surcharges, 100*l.*, &c.

oath or solemn affirmation of the said party, from appealing within the time herein limited, or from attending in person at the time limited for hearing such appeals, it shall be lawful for the respective commissioners to enter such appeal after the time herein limited, or to postpone the hearing thereof for such reasonable time as may be necessary."

"Third.—The said certificates of surcharge, amended according to the determination of the respective commissioners, shall be a sufficient authority to them, and they are hereby required, to cause supplementary assessments to be made out of the said duties respectively, including therein all matters so surcharged, as well such matters as have not been appealed against, as the matters determined by the said commissioners, which matters shall be severally charged to the said duties respectively, according to the said certificates of surcharge, amended, in cases requiring amendment, according to the determination of the said commissioners, and also including therein the double duties or moieties, or parts thereof assessed, over and above the rates of duty prescribed by the said acts respectively, and also all fines and penalties imposed on any person or persons by the said respective commissioners, within the year of assessment for offences committed against the said acts or this act; which double duties or moieties, or parts thereof, and penalties, shall severally and respectively be added to such supplementary assessments, and be collected therewith."

"Fourth.—The duties and sums of money contained in the supplementary assessments of each year, which shall be completed within the time herein limited, shall, if not sooner paid or satisfied according to the directions of the said acts respectively, be collected and levied at the respective times hereinbefore appointed for payment of the last instalment of the duties contained in the first assessments of the said duties respectively for that year; and each assessment thereof shall be collected, levied, or paid in one sum."

"Fifth.—In all cases where the said duties, or any of them, shall not have been ascertained and assessed before the respective days appointed by this act for payment for the last instalment thereof, the same respectively shall and may be assessed from time to time, until a complete assessment be made, and shall be collected, levied, or paid in one sum within twenty-one days after notice of the amount contained in the assessment thereof."

"Sixth.—If any inspector or surveyor shall wilfully make any false and vexatious surcharge of any of the duties contained in any of the said acts, or shall wilfully deliver, or cause to be delivered, to the respective commissioners for executing the said acts or any of them, any false and vexatious certificate of surcharge of any of the said duties, every such inspector or surveyor shall be liable to forfeit to the party aggrieved any sum not exceeding 100*l.*, or treble the value of the sum claimed by such surcharge, over and above the rate of duty charged by the said acts respectively, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster for offences committed in England, and in the court of great sessions for offences committed in Wales, with full costs of suit: and it shall be lawful for the party aggrieved to sue either for the said penalty of 100*l.*, or for the said treble value under this act, at his or their election; and it shall also be lawful for the judge before whom such inspector or surveyor shall have been convicted of such offence in any such suit, either for the said penalty or treble value, or any part thereof, by indorsement on the *postea*, or for the court before whom such inspector or surveyor shall be convicted, by entry on the record, to certify his or their satisfaction with such conviction; and in every such case the said certificate shall be an authority to the commissioners for the affairs of taxes, and they are hereby required, to cause to be paid by the receiver-general of the county, riding, or division wherein such conviction was had, out of any monies of the said duties respectively in his hands, such reasonable expenses as the plaintiff shall have incurred, over and above the costs of suit as aforesaid, the amount thereof being certified by the proper officer for taxing costs of the court in which such suit shall be commenced, to have been necessarily expended, and allowed by such officer as between attorney and client; and every such inspector and surveyor shall, after such conviction, be discharged from his employment."

"No. V.—Rules and Directions for paying to the Receiver-General, and accounting for the Duties received by the Collectors."

Collectors shall pay the duties on the next receipt, and account twice each year.

"First.—The several collectors shall pay to the receiver-general, or his deputy, all monies of the said respective duties which the said collectors shall have received or levied, by virtue of any of the acts herein mentioned, on the respective days herein appointed for payment of the said duties or any of them, next after their

receipt of the same, and shall, twice in each year, account with such receiver-general or his deputy, in the manner hereinafter mentioned, for all such duties; that is to say, for the duties of assessed taxes, the said collectors shall pay or account for one entire moiety thereof on the day to be appointed next after the 10th day of October, and the remainder thereof on the day to be appointed next after the 5th day of April, in each year; and for the duties on property, professions, trades, and offices, the said collectors shall pay or account for one entire moiety thereof on the day to be appointed next after the 5th day of January in each year, and the remainder thereof on the day to be appointed next after the 5th day of July following; on which last-mentioned days appointed for payment to the said receiver-general or his deputy, of the said respective duties, *videlicet*, on the day appointed next after the 5th day of April yearly, for the payment of the last moiety of the duties of assessed taxes, and on the day appointed next after the 5th day of July, yearly, for payment of the last moiety of the duties on property, professions, trades, and offices, the full and entire amount of duties, penalties, and sums of money contained in the said supplementary assessments of the said respective duties, shall also be paid to the receiver-general or his deputy, or accounted for to him or them in the manner hereinafter directed; for which payments, the said receiver-general or his deputy shall give to such collectors receipts in writing, distinguishing the amounts received for the duties on assessed taxes from the amount received for the duties on property, professions, trades, and offices, and from all other duties payable to his majesty, and for which receipts no stamp duty shall be charged or chargeable, any statute to the contrary thereof notwithstanding: provided, that if any collector or collectors shall not at or before the respective times hereinbefore limited, have received or levied the said respective duties, or shall not then account to the receiver-general or his deputy for the same, in the proportions before directed, he or they shall deliver to the said receiver-general or his deputy, at the respective times appointed for such payments, or to the commissioners of the division, within three days after the respective times aforesaid, a schedule in writing, signed by such collector or collectors, containing the christian and surname of each defaulter, and the respective sums then in arrear from each such defaulter, with an affidavit subscribed, to be made on the oath or affirmation of the said collector or collectors (which oath or affirmation may be taken before any one commissioner of the division), that the several sums contained in the said schedule have been demanded from, and are due and wholly unpaid from the respective persons charged therewith, either to such collector or collectors, or to any other person or persons for such collector or collectors, to the best of his or their knowledge and belief."

"Second.—Every such schedule, being certified under the hand of the receiver-general or his deputy of the county or division where the said arrears accrued to the Court of Exchequer at Westminster, shall be received and taken as sufficient evidence of a debt due to his majesty, and shall be a sufficient authority to the barons of the said court, or any one of them, to cause process to be issued against such defaulter named in the said schedules, to levy the whole sum in arrear and unpaid by such defaulter; and the sheriff or other officer to whom the said process shall be directed, shall, without delay, cause the whole sum in arrear to be levied by due course of law as a debt to his majesty on record, with all costs and expenses attending the same, and shall pay the monies so levied, after deducting the said costs and expenses, to the said receiver-general or his deputy, and shall make return of the said process to the said court, according to the due course thereof: provided, that every such schedule shall remain with the commissioners of the division for the space of forty days before the certificate thereof shall be transmitted to such court, during which period of forty days every such collector shall give due notice of such schedule to the several defaulters named therein, in such manner as the said respective commissioners shall direct, on pain that every collector neglecting so to do shall forfeit the like penalty as is imposed on collectors by the said several acts, or any of them, in other cases of neglect of duty; and it shall be lawful for every such defaulter within the like period to pay his or her arrears to the said collector or collectors, whose receipt shall be a sufficient authority to the said commissioners to discharge the arrears so paid from the said schedule; and it shall also be lawful for the said commissioners, if they shall see cause, to issue fresh warrants to collect the said arrears, or any of them, within the said period of forty days, and during that period to use all or any the means or methods prescribed by the several acts relating to the said respective duties, for the recovery of the said arrears, or direct the said arrears to be levied by the respective collectors under their former warrant, as shall be most expedient; and all warrants to be issued for that purpose may be directed either to the said collectors, or to the high constable, constables, or other peace

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3, c. 141.

Receipts shall be given for each such payment.

In default of paying the full amount, a schedule of arrears shall be given.

Certificate of such schedule shall be ground of process.

Schedule shall remain with commissioners for a certain time, during which commissioners may levy warrants.

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3, c. 141.

officers, within the limits of their division, or any one or more of them, or to any other person or persons whom the said commissioners shall think proper, with authority to levy by distress and sale, in the manner directed by the said acts respectively, the sums in arrear, together with all costs and expenses attending the said process and the execution thereof; and the sums so levied, after deducting the said costs and expenses, shall be paid to the receiver-general or his deputy, at such time and place as the said receiver-general shall appoint, and shall be discharged from the said schedule; and all high constables, constables, and other peace officers, within the said division, shall act in obedience to the directions of the said commissioners, and shall execute all such orders and process as shall be to them or any of them directed, for the recovery of the said arrears: provided, also, that when the commissioners of the division shall certify to the commissioners for the affairs of taxes any reasonable cause for non-payment of, or for not proceeding to levy any part of the said arrears included in the said schedule, and that they have good reason to believe the same will be paid within a reasonable time, to be stated in such certificate, it shall be lawful for the said commissioners of the division to retain the said schedule in their hands for such further time as shall be necessary, and as shall be mentioned in their aforesaid certificate."

In default of such schedule, receiver-general may certify the default to the Exchequer.

"Third.—In default of such schedule being delivered within the space of three days as aforesaid, either to the receiver-general or his deputy, or to the said commissioners, it shall be lawful for the receiver-general, to whom the payments of the said duties shall not have been made in the proportions herein prescribed, and at the times above mentioned, and he is hereby required to certify to the said Court of Exchequer the amount of the duties remaining unpaid, to the best of his knowledge and belief, and the particular ward, parish, or place, and the division where such failure hath happened, together with the names of the collectors of the said parish, ward, or place; and such certificate, under the hand of such receiver-general or his deputy, shall be a sufficient authority to the barons of the said court, or any one of them, to cause process by way of *distringas* to be issued out of such court against the said collector or collectors, upon which writ of *distringas* the sheriff or other officer to whom the said process shall be directed, shall return such issues from time to time as such court or baron shall order, until a return of such schedule and arrears shall have been made to the said court, and immediate process shall thereupon issue for levying the said arrears out of and under the seal of such court, which levy shall not be remitted unless all the said duties in arrear shall be paid or satisfied before the return of such process."

Surveyor shall attend receiver-general at his receipt.

"Fourth.—On each half-yearly day of payment, as herein is directed, the surveyor of the district shall, on notice thereof from the receiver-general or his deputy, attend with such of the duplicates of assessment as shall have been delivered to him, and as shall be required by the said receiver-general or his deputy, and shall assist him or them in adjusting the accounts of payments and of arrears, and shall also assist the collectors in making out their schedules of arrears to the best of his judgment."

Payment of duties to receiver-general, where the arrears have been levied.

"Fifth.—The duties contained in any schedule of arrears, as aforesaid, which shall be paid to such collector or collectors within the period of forty days before mentioned, or within such further period as shall have been stated in the certificate of the commissioners for the retention of such schedule as before mentioned, shall be paid over to such receiver-general or his deputy, at such time and place as the said receiver-general shall appoint."

Collectors advancing duties empowered to levy the sum paid.

"Sixth.—Whenever any collector or collectors shall have advanced and paid to the receiver-general or his deputy any sum of money for or on account of the duties assessed on any other person or persons, whether at his or their request or not, it shall be lawful for such collector or collectors, in default of repayment to him or them, at any time within the space of six calendar months after such payment, to levy the said duties by the like ways and methods as such collector or collectors might have levied the same before such payment thereof to such receiver-general or his deputy, and as if such duties had not been paid or satisfied."

Commencement of preceding rules, Dec. 31, 1808.

Sect. 2. "That this act, as to all matters contained in the rules of the preceding clause, shall commence and take effect from and after the 31st day of December, 1808, in respect of all assessments to be made for any year after the 5th day of April, 1809."

No list of any article surcharged shall be required; if proved to be returned before

Sect. 3. "That in cases of surcharge under the said acts relating to the duties of assessed taxes, no list, affidavit, or oath shall be required of any article, matter, or thing which the party surcharged shall prove to the satisfaction of the commissioners of appeal to have been duly returned before the

date of the said notice, in any list delivered by the said party for the year for which such surcharge shall be made : and either the said return, or a certificate thereof, signed by two commissioners of the division where the return shall be made, shall be received conclusively as proof thereof ; and the return or returns required by the said acts shall be deemed full, perfect, and complete returns, if the amended return, together with the return before made, shall include all articles, matters, and things for which the party so surcharged shall be chargeable ; and no person shall be liable to surcharge for any article, matter, or thing before returned by him or her, according to the directions of the said recited acts or of this act."

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3, c. 141.
the date of the notice.

Sect. 4. " That when the commissioners of any division shall have fixed the day or days of appeal against the surcharges made by any inspector or surveyor, under the said acts or any of them, and shall have caused due notice thereof to be given, according to the directions of the said acts, and the said inspector or surveyor, having like notice thereof, shall wilfully neglect to attend the meeting or meetings of the said commissioners, held in pursuance of such notices, whereby the commissioners shall be prevented in proceeding to hear such appeals, it shall be lawful for the said commissioners to allow to each appellant attending such meeting a reasonable compensation for such attendance, to be settled by the said commissioners, and paid to such appellants respectively by the receiver-general of the said duties, or his deputy, on the production of the certificates of any two or more of the said commissioners, testifying such allowance."

Penalty on inspectors and surveyors neglecting to attend meetings of the commissioners.

Sect. 5. " That it shall be lawful to and for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time to constitute and appoint, for England and Wales, such person or persons, not exceeding ten in number at any one time, as his majesty, his heirs and successors, or the said commissioners of the treasury, or the high treasurer for the time being, shall think proper, to be inspectors-general for the special purposes of this act, hereinafter specified and declared ; and to allow to such inspectors-general such reasonable salaries, charges, and expenses, as may be necessary for their pains in executing this act in the several particulars hereinafter mentioned ; and no person to be appointed inspector-general under this act shall be entitled to amend any assessment made under the said acts, or to surcharge any person or persons in respect thereof ; nor shall any such person have, or receive, or claim any advantage or emolument from any assessment or surcharge to be made under any of the said acts, nor any other emolument than the salary and allowance authorized by his majesty, the commissioners of the treasury, or the high treasurer as aforesaid."

His majesty or the treasury may appoint ten persons to be inspectors-general, and allow them salaries, &c.

" The Powers to be vested in the Inspectors-General."

Their powers.

" First.—It shall be lawful for such inspectors-general to visit from time to time each inspector and surveyor acting in the execution of the several acts relating as well to the duties of assessed taxes as the said duties on property, professions, trades, and offices, within the limits of the circuit for which such inspector-general shall be appointed, and to examine all or any of the books and assessments and duplicates, or certificates of assessment or surcharge, in the hands or power of such inspector or surveyor ; and also to inquire into the conduct of every such inspector and surveyor in the execution of their respective offices, and into their fitness and capacity to execute the same, and to report from time to time on the several matters aforesaid to the commissioners for the affairs of taxes ; and every such inspector and surveyor shall attend such inspector-general at such time and at such place, within the district of such inspector and surveyor, as the said inspector-general shall appoint, and shall have given three days' notice of, to such inspector or surveyor."

To visit inspectors and surveyors.

" Second.—It shall be lawful for every such inspector-general to administer to any such inspector or surveyor, whenever he shall see occasion to examine him or them in any matter touching the execution of the said acts, an oath that he shall true answer make to all such questions as shall be demanded of him ; and the substance of such answer or answers as such inspector or surveyor shall give, shall in his presence be reduced into writing, and read to him, with liberty to alter or amend the

To administer an oath to inspectors and surveyors.

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3, c. 141.

Inspector-general may report to commissioners of division.

In certain instances a case may be transmitted to commissioners for taxes.

Exception as to Scotland.

Certain places shall be assessed according to annexed schedule.

same in any particular ; and he shall sign his assent to the same in his own name, and in his usual manner of writing or signing the same."

" Third.—It shall be lawful for every such inspector-general as aforesaid, whenever he shall see occasion, to report to the commissioners of the division on any matter or thing touching the execution of the said acts or this act in relation to any assessment or assessments in such division, or touching the conduct of any clerk to such commissioners, or of any assessor or collector appointed under the said acts or this act, together with the opinion of such inspector-general thereon ; and every such inspector-general shall transmit a duplicate of such last-mentioned reports to the commissioners for the affairs of taxes ; and whenever any inspector-general shall have reported to the commissioners of any division any such matter or thing which, in the opinion of such inspector-general, shall require the particular consideration of the commissioners of such division, it shall be lawful for them to hold a meeting for that purpose, and they are hereby required to hold such meeting within a reasonable time after such report, at which meeting such inspector-general may attend for the purpose of explaining the matter or matters contained in the said report, and of suggesting for their consideration the propriety of adopting such order or orders as may be agreed upon by the major part of the commissioners of such division who shall be present at such meeting."

" Fourth.—If any inspector-general as aforesaid, or any commissioner for the division, who shall have been present at any meeting of commissioners at which the report of such inspector-general shall have been taken into consideration as aforesaid, shall apprehend the determination made by the commissioners at such meeting on the said report, or any of the matters therein contained, to be contrary to the true intent and meaning of the said acts relating to the said duties respectively, or any of the said acts, it shall be lawful to and for such inspector-general, and to and for any one or more of the commissioners for the division, present at the time of such determination respectively, to require a case to be prepared, and signed by the said commissioners for the division ; in which case the said commissioners shall state specially the part or parts of the report of the said inspector-general, and the facts on which the question arose, together with their determination thereupon, and any other circumstances influencing the said commissioners in such their determination ; and which case the said commissioners, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be transmitted to the commissioners for the affairs of taxes, who shall forthwith submit the same to the judges of the courts of record at Westminster ; and such judges, or any two or more of them, are hereby required, with all convenient speed, to return an answer to such case so transmitted, with their opinion thereon subscribed thereto, and what ought under all circumstances to be done therein, according to which opinion and directions, so certified, the determination of the commissioners which shall have been so objected to, and which shall be stated in such case, shall be confirmed, reversed, altered, or amended, as the case may require, and if any assessments shall be depending on such determination of the said commissioners, the same shall also be altered or confirmed according to the said opinion."

Sect. 6. " That none of the provisions of this act hereinbefore contained shall be construed to extend to that part of Great Britain called Scotland."

The sections 7, 8, 9, 10, 11, relating to duties on profits, &c., are repealed.

Sect. 12. " That the several parishes and places, or parts of parishes or places, set down in the first column of the following schedule, and which have been heretofore charged to the said respective duties or either of them, in the respective divisions mentioned in the second column of the said schedule, and set opposite thereto respectively, shall, from and after the passing of this act, be charged to the said respective duties in the divisions, and shall be subject to the jurisdiction of the commissioners, and persons acting under them, and to the inspectors and surveyors of the division mentioned in the third column of the said schedule, and set opposite thereto respectively."

" Schedule referred to by the above clause.

2. *The Acts regulating the Assessments and Collections, &c.*

48 Geo. 3. c. 141.

Description of Parishes or Places.	Heretofore charged in.	Hereafter to be charged in.
Part of the parish of Wokington, situate in the counties of Berks and Wilts	Hundred of Amesbury, Wiltshire.	Hundred of Sonning, Berkshire.
Part of the parish and town of Morpeth, in the county of Northumberland	Castleward, Northumberland.	Morpeth Ward, Northumberland.
Part of the parish of Gillingham, in the county of Kent, called the Grange, parcel of the liberty of Hastings, in the county of Sussex	Town and port of Hastings, county of Sussex, and liberty thereof.	Rochester division, part of the Lathe of Ford, county of Kent.
Bushton, part of the parish of Cleeve Pyhard, in the county of Wilts	Hundred of Elstub and Everley, Wiltshire.	Hundred of Kingsbridge, Wiltshire.
Little Hinton, in the county of Wilts	The same.	The same.
Wroughton, in the county of Wilts	The same.	The same.

Sect. 13. " That nothing in this act shall be construed to extend to any of the cases hereinafter specified ; (that is to say) Exceptions.

" First.—To the duties granted by an act, passed in the thirty-eighth year of the reign of his present majesty, by way of a land-tax." 38 Geo. III. c. 3.

" Second.—To the duties granted, or to be granted, by any act or acts of parliament for one year, for the service of such year." Pensions, &c.

By the 50 Geo. III. c. 105, s. 1, after reciting, that " whereas it is expedient that certain of the powers and provisions contained in any act or acts relating to the duties of assessed taxes, or to the duties arising from the profits of property, professions, trades, and offices, should be amended, in the particulars hereinafter mentioned," it is enacted, " that from and after the passing of this act, the several surveyors and inspectors appointed or to be appointed by his majesty in pursuance of the said acts, to carry into execution the powers therein given to them, in that part of Great Britain called England, shall, in making any increase of duty either on the returns of parties or the estimates of assessors, or the assessments made by commissioners under the said acts, observe the following rules and directions for their government, and shall be subject to the several provisions therein contained; which rules and directions shall be of the like force and effect as if the same were herein inserted under a special enactment."

50 Geo. 3, c. 105.
As to surcharges.

" Rules and Directions for making Objections and Charges, and for limiting the Times of making the same in certain Cases, in that Part of Great Britain called England.

" First.—Every surveyor and inspector appointed, or to be appointed, in pursuance of the said acts, or any of them, shall be, and they are hereby empowered and strictly enjoined and required to inspect and examine all and every the returns of lists, statements, declarations, accounts, or estimates, made by any person or persons chargeable to the said duties, or any of them, or by any assessors of any of the said duties, according to the directions of any act or acts before mentioned, and also all and every the first assessments of the said duties, or any of them made for any parish, ward, or place, for any year, as well before as after the respective commissioners acting in the execution of the said acts respectively shall have signed and allowed the first assessments made for such parish, ward, or place, for that year : and if he or they shall discover any error or wrong amount or computation of duty therein; or that any person who ought to be charged with the said duties, or any of them, shall have duly made a return as required by the said acts respectively, but shall have been omitted to be charged with the said duties, or any of them, or shall be under-rated in the said first assessment, and that the said return doth contain matters

Surveyors and inspectors to examine returns and assessments, and may amend them, &c.

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

After assessments are allowed, surveyor to certify omissions to commissioners, by way of surcharge.

Upon delivery of certificate, and oath being made that notice was given, commissioners to allow certificates.

Lists delivered to surveyors, and assessments produced for taking copies.

Notice to persons charged.

In what case delivery of certificate of surcharge to clerk sufficient.

Certificate sufficient proof of contents of notices.

sufficient, whereby the said surveyor or inspector may rate such person, in the said first assessment, to the full duties chargeable upon him or her, according to, or by or from such return, it shall be lawful for the said surveyor or inspector, and they respectively are hereby required, before such allowance, to correct and amend such assessments, and to charge such person to the full amount and at the full rate of duty at which he or she ought to be charged, according to his or her return so delivered.

“Second.—If any such surveyor or inspector shall, after any such assessment or assessments in respect of the duties of assessed taxes shall be signed and allowed by the said commissioners, or if any such surveyor or inspector shall, after any such assessment or assessments, in respect of the duties arising from the profits of property, professions, trades, or offices, shall be signed or allowed by the commissioners acting for the general purposes of the acts relating to the said duties, find or discover, upon his survey or examination, or otherwise, that any person liable to the said duties, or any of them, in respect of which such lists, statements, accounts, or estimates, as aforesaid, ought to have been delivered, hath not made any return as by the said act or acts is required, or hath omitted any person, or any property, or profits, or the amount or value thereof, or any article, matter, or thing, or any description of the same which ought to have been returned, or hath not returned the full amount of value of any property, or profits, as required by any of the said acts, so that he or she shall not, on account of such default or omission, have been charged to the amount which ought to be paid by him or her, or that any exemption, allowance, or deduction, which is not allowed by the respective acts relating to the said duties, shall have been claimed in or by such return, then, and in every such case, it shall be lawful for the said surveyor or inspector to certify the same in writing, together with an account of every such default, omission, or claim, with the name or description of the person or thing not returned or omitted, to the best of his knowledge and belief, and the full amount of the single duty by which the assessment ought to be increased, explicitly stating the particulars in respect of which such charge has been made, and to deliver the same to any two or more of the said commissioners for putting in execution the said acts respectively, or to their clerk, in order to have such default, omission, or claim, and the under-rate occasioned thereby, rectified; and such commissioners are, upon the delivery of any such certificate, and upon oath being first made either by the inspector or surveyor, or any other credible witness or witnesses who shall have served the same, that a notice to the effect hereinafter mentioned was duly served, required to sign and allow the said certificates, and to cause supplementary assessments to be made according to such certificates, subject to appeal, as hereafter is allowed.”

“Third.—Every person in whose custody any such lists, statements, accounts, or estimates, shall be, shall and is hereby required, upon the request of any such surveyor or inspector as aforesaid, to deliver the same into his custody for the purposes aforesaid, taking his receipt for the same; and every person in whose custody any such assessment shall be, shall and is hereby required, upon the request of such surveyor or inspector as aforesaid, to produce the same; and such surveyor or inspector is hereby authorized to take charge of the same, until he shall have taken such copies of or extracts from the same, as may be necessary for his and their better information.”

“Fourth.—The said inspectors and surveyors shall give, or cause to be given, to every person so charged, or leave, or cause to be left, at his or her last or usual place of abode, in the district where such charge was made, or on the premises charged with the assessment, as the case shall require, and as shall have been directed by the several acts relating to the said duties respectively, notice in writing of such charge, and of the amount of duty to be included in the certificate of such charge, and the particulars thereof; which charges the said inspectors and surveyors are hereby empowered to make, at or before such times as are directed by the said acts, or this act, for the delivery of the certificates of such charges to the said respective commissioners.”

“Fifth.—In default of a meeting of the said respective commissioners before the time limited by the said acts, or this act, for the hearing of any appeals from the charges of the said surveyor or inspector, or if the said surveyor or inspector shall not have had notice of a meeting of the said respective commissioners, it shall be lawful for the said commissioners, and they are hereby required, at their first meeting to be held thereafter, to sign and allow the said certificates, and afterwards to hear and determine all appeals therefrom.”

“Sixth.—The certificate delivered to the commissioners, containing the day or days of service of the notice delivered to the party charged, shall be deemed sufficient proof of the contents thereof, unless the contrary be shown on the production of such

notice to the said respective commissioners by the party charged; and no proof of the contents of any such notice shall be required by the said commissioners to be given to them, either by a copy thereof or otherwise, previous to their signing or allowing the said certificates, nor upon appeal therefrom, nor other proof in any matter relating to the same, except as aforesaid; and except the oath of the person or persons who shall have served such notices as hereinbefore directed, and which shall be in the form and to the effect following; that is to say,

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

"I, A. B., do swear that a notice in writing was duly served upon each person mentioned in the above certificate, containing the particulars as set forth therein respectively, on the day or days mentioned in the said certificate."

Oath.

"Seventh.—No assessment made or to be made by any assessor or assessors of the said duties respectively, nor any charge made or to be made by any surveyor or inspector upon such assessment, shall be impeached or affected by reason of any mistake in the christian or surname, or either of them, of any person liable to any of the said duties, nor by reason of any mistake in the description of any property or profits, or of any servant or person, or of any article, matter, or thing, for which the person so charged shall be liable to any of the said duties, nor by reason of any mistake in the amount of the duty charged, nor by any variance between the notice and the certificate of charge, whether such mistake shall appear in, or such variance shall arise from the notice and certificate to be delivered or made in such case, or in either of them; but that all such assessments and charges shall be valid and effectual, to all intents and purposes, notwithstanding any such mistake or variance: provided, that in cases of charge, the notice thereof be duly served on the person intended to be so charged, and such notice and certificate do severally contain in substance and effect the several particulars on which such charge shall have been made; and every such charge shall be heard and determined on the merits, in such manner as in the said acts or in this act is directed."

Assessments or charges not impeached on account of mistakes in names or descriptions.

"Eighth.—It shall be lawful for any person to whom such notice of charge shall be given as aforesaid, on occasion of his or her having neglected to make any return as required by the said act or acts, at any time previous to the time appointed for hearing appeals next after the delivery of such notice, to make out and deliver to the surveyor or inspector who shall have delivered the notice of charge, a true, perfect, and complete list, statement, account, or estimate, of all matters and things required by the said act or acts to be returned; so that he or she may, from such last-mentioned list, statement, account, or estimate, so to be delivered, be charged to the said duties respectively the full sum at which he or she ought to be charged by virtue of the said act or acts; provided, that to every such list, statement, account, or estimate, there shall be annexed a declaration in writing in the form and to the effect hereinafter mentioned; and if the said surveyor or inspector shall be satisfied with such list, statement, account, or estimate, and the declaration annexed thereto, then he shall certify such return and declaration annexed thereto to two or more of the said commissioners, with the amount of the duty to be charged; who shall thereupon cause the assessment to be made according to such certificate, and the same rate of single duty, as set forth in the said several acts respectively, to be charged on the person making such return without further trouble or delay; but if, upon examination of such list or return, and declaration annexed thereto, the said surveyor or inspector shall see just cause to object thereto, he shall thereupon certify such return and declaration annexed thereto, together with the cause of his objection, to two or more of the said commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate in double the amount of the duty at which he or she shall be charged, and from which charge no abatement shall be made on any pretence, unless on appeal as hereinafter is directed; of which objection notice shall be given by the surveyor or inspector to the person to be charged thereby, together with the cause of his objection to the said return and declaration to be annexed thereto; and the said commissioners shall determine the said objections on the merits, without further notice of appeal from the party so charged."

How double duty avoided.

Surveyor may certify same, and party shall be charged at single duty.

If dissatisfied, may state objection.

Notice of objection.

"Ninth.—Every such declaration, in cases where no return hath been previously made by the person so charged for the same year, shall allege and declare in substance, or to the effect as follows; (that is to say) that he or she, the said exhibitant, was not at his or her dwelling-house, or other place of abode, at the time appointed for the fixing or delivery of general or other notices for making a return as required by the said act or acts, nor between that day and the time limited for making such return to the assessor, and that he or she hath not received or had any knowledge of any such notice; or, that he or she was disabled by sickness from making such return; or, that the non-delivery of such return was occasioned by the following mis-

Declaration to contain a satisfactory account in excuse of party, and to be attested by credible witnesses.

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

How, on charges for any omission in a return, double duty may be avoided.

Charge made in single duty, unless surveyor certify objection.

Form of declaration in cases of charge for defective returns.

No declaration required, if party give notice in writing to surveyor that his return is correct, &c.

take or accident, without any intention to defraud the revenue, *videlicet* [here set forth the cause of such default]; and that the return to which the declaration of the said exhibitant is annexed is a full, perfect, and complete return of all matters and things required of the said exhibitant by the said act or acts, or by this act, to the best of his or her judgment and belief:—which declaration and return shall severally and respectively be signed by the party making the same, in the proper name and hand-writing or sign of the said party, attested by one or more credible witness or witnesses, who shall have seen the said party subscribe or sign the same, and shall attest the signature thereof in the proper names and hand-writing of the said witness or witnesses respectively; provided every such witness shall be an inhabitant of the same ward, parish, or place where the said party shall reside, and who shall be rated in the assessment of the same duties for the same ward, parish, or place aforesaid, or if in any place there shall be no inhabitant competent to be such witness, then the said declaration shall be attested by some credible witness rated as aforesaid, and residing in the next adjoining parish where the said party shall reside.”

“Tenth.—It shall be lawful for any person to whom such notice of charge shall be served, on occasion of his or her having omitted in the return before made for the same year, any person, property, profits, description, statement, account, or estimate, or any article, matter, or thing which ought to have been contained in such former return, or which shall be mentioned in such notice of charge not to be contained in such former return, or of having claimed any exemption, allowance, or deduction, not allowed by the said act or acts respectively, or of having returned the amount or value of any property or profits at less than the sum which ought to be returned according to the said acts respectively, if he or she shall consent or agree to such charge, to give notice in writing of his or her consent accordingly to the said surveyor or inspector; and the said surveyor or inspector shall certify such consent, and the amount of the single duty which ought to be charged, to the said commissioners, according to which certificate the party charged, and consenting thereunto, shall be assessed in the single duty, and such consent shall be deemed equivalent to an amended return and declaration, as required by this act; or such person so charged, if he or she shall not so consent or agree in manner aforesaid, may amend such former return, by delivering to the surveyor or inspector as aforesaid a supplementary list, statement, account, or estimate, according to the directions of the said acts respectively, and as the case may require, to which a declaration in writing shall be annexed, to the effect hereinafter mentioned; and the said surveyor or inspector shall be at liberty to certify his satisfaction therewith, or his objection thereto, to the said respective commissioners; according to which certificate the party charged shall be assessed in the single duty if such surveyor or inspector shall be satisfied therewith, or in the double duty in the manner hereinbefore directed in cases where no previous return shall have been made, and as the case may require, subject to the like power of appeal from such objection, and to the like proceedings in all other respects as are before given.”

“Eleventh.—Every such last-mentioned declaration shall allege and declare the grounds and cause of each omission made or mentioned in such notice of charge to have been made in such former return, and also the grounds and cause of each claim of exemption, allowance, or deduction, and also that the return to which the said declaration is annexed is a full, perfect, and complete return of all matters and things required of him or her by the said act or acts, or by this act, to which the said charge shall relate, to the best of his or her judgment and belief, and that such omission or claim was not made with intention to defraud the revenue; which said last-mentioned declaration and return shall severally and respectively be signed and attested in the manner before directed in cases of other declarations and returns before mentioned.”

“Twelfth.—No return or declaration shall be required of any property, profits, article, matter, or thing of which the party charged shall have made a due return for the same year, but the said party shall be at liberty to give notice in writing to the said surveyor or inspector that he or she doth abide by such former return; or may make out and deliver a supplementary return and declaration in the manner before directed; which return and declaration, together with the return before made, subject nevertheless to the objection of the said surveyor or inspector in manner aforesaid, shall be deemed full, perfect, and complete returns, if the same shall together include all articles, matters, and things, for which the party so charged shall be chargeable; and no person shall be liable to the penalties contained in this act for any article, matter, or thing which shall have been returned by him or her in manner aforesaid, so that he or she might have been fully charged to the said respective duties charge-

able thereon, but only for such articles, matters, or things which shall not have been returned by him or her in manner aforesaid."

"Thirteenth.—If any surveyor or inspector shall wilfully make any false and vexatious charge of any of the said duties, or shall wilfully deliver or cause to be delivered, to the respective commissioners for executing the said acts or any of them, any false and vexatious certificate of charge of any of the said duties, or any false and vexatious certificate of objection to any supplementary return, or shall be guilty of any fraudulent, illegal, or unjust conduct, in the prosecution of any charge of any of the said duties, or shall wilfully neglect the duty of his office, or in any manner offend against the laws for regulating the duty of his said office, and the same shall be proved on the certificate of the said respective commissioners of the division where such offence shall be committed, or any two or more of them, or on the affidavit on oath, or solemn affirmation, to be taken before any one of the said respective commissioners, of any credible person or persons, to the satisfaction of the commissioners for the affairs of taxes, or any two or more of them, or by the confession of the said surveyor or inspector, it shall be lawful for the said commissioners for the affairs of taxes, for any such offence, to suspend the payment to the said surveyor or inspector of all or any reward, emolument, or advantage, which the said surveyor or inspector would be entitled to under the said acts or any of them, for any increase of duty or overplus above the rate of duty occasioned by the information or charge of the said surveyor or inspector, or such part thereof as the said commissioners for the affairs of taxes shall deem just and necessary, and finally to withhold the same, and direct the same to be paid by the receiver-general into his majesty's receipt of Exchequer; unless the lords commissioners of his majesty's Treasury shall think fit to restore the same to the said surveyor or inspector, or to mitigate and lessen the sum so to be withheld and paid over into his majesty's Exchequer: provided always, that nothing hereinbefore contained shall be construed to impeach or affect any action or suit for the recovery of any penalty or penalties imposed by any former act or acts, against such surveyor or inspector for any such offence or offences as aforesaid, or for any false and vexatious charge of any of the said duties; but all such penalties, and the powers for recovery thereof, shall be and remain in force, notwithstanding the powers of this act, or any act or thing done in pursuance thereof."

"Fourteenth.—Where any person or persons, thinking himself, herself, or themselves respectively overcharged or over-rated by any charge or certificate of objection by any surveyor or inspector as aforesaid, or by any assessment to be made by virtue or in pursuance of such charge or certificate, shall have appealed therefrom to the said commissioners, according to the directions of the said acts respectively, the appellant shall, upon the hearing such appeal, in all cases where a list, statement, account, or estimate in writing, shall or ought to have been delivered by the said appellant to the assessor, produce, or cause to be produced, before the said commissioners, a true, perfect, and complete list, statement, account, or estimate, as the case may require, to the best of the judgment and belief of the said appellant, with a declaration in writing thereunto annexed, to the effect hereinafter mentioned; (that is to say) the said appellant shall declare that the list, statement, account, or estimate, to which the said declaration is annexed, doth contain all matters and things required of the said appellant to be returned by him or her, for which he or she is chargeable by virtue of any act or acts, to the best of his or her judgment and belief; which return and declaration shall severally and respectively be signed by the said appellant in the proper name and hand-writing of the said appellant; and in default of the production of such list, statement, account, or estimate, by or on behalf of the said appellant, with such declaration annexed, the said commissioners shall confirm the charge or objection against which such appeal was made."

"Fifteenth.—Upon every charge allowed or confirmed by the respective commissioners, in the whole or in part, upon which any increase of duty shall be made, the assessments thereupon shall be made in double the amount of duty which shall have been charged in the supplementary assessments on occasion of such charge, unless where the same is otherwise provided for by this act."

"Sixteenth.—Where an amended return, with a declaration annexed thereto, shall not be delivered to the surveyor or inspector, and where no list, statement, account, or estimate with such declaration annexed as aforesaid shall be produced to the said commissioners on the hearing of such appeal, it shall not be lawful for the said respective commissioners to make any abatement, defalcation, or remission of the said double duty or any part thereof, but the same shall stand good and remain part of the annual assessment; unless the party charged shall have given notice of his or her consent to the charge of the said surveyor or inspector, or unless the said respective commissioners shall be of opinion that the said surveyor or inspector was or were

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

Vexatious charge, &c.

Proviso.

Appeal.

Production of lists, &c.

Charges confirmed in default of production.

Assessments made in double duty, &c.

In what case double duty remitted.

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 135.

Double duty remitted where default has been corrected by party's return.

Moiety of double duty remitted where default not fraudulent.

In what case the whole of double duty remitted, &c.

In what case no double duty.

Reward to officers.

Charges not to be made after objections to estimates of same property.

Charges may be made after objections in certain cases.

enabled to correct or amend the first assessments of the said duties for that year, according to the directions of this act, by means of or by reference to the original return of the party so charged, in which cases it shall be lawful for the said commissioners who shall have confirmed such charge at the same time to remit and strike off the whole of the double duty."

"Seventeenth.—Upon every charge confirmed upon appeal, if the said commissioners shall, after examination of the appellant, or by other lawful evidence produced on his or her behalf, as directed by the said acts respectively, be of opinion that the alleged default, neglect, omission, or claim of exemption, allowance, or deduction, hath been duly accounted for, and that the cause or causes have been truly stated in any amended return and annexed declaration, and that the appellant had a just or reasonable cause of controverting the said charge, and that the said default, neglect, omission, or claim of exemption, allowance, or deduction, was not wilfully made and with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, although they shall have confirmed the charge in part or in the whole, at the same time to remit and strike off the whole of the double duty."

"Eighteenth.—Upon every charge confirmed upon appeal, although no amended return shall have been delivered to the surveyor or inspector as allowed by this act, if the said commissioners shall, after examination of the appellant, or by other lawful evidence produced on his or her behalf, as directed by the said acts respectively, be of opinion that the alleged default, neglect, omission, or claim of exemption, allowance, or deduction, was not wilfully made, and with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, at the same time to remit and strike off any part of the said double duty, not exceeding one moiety thereof; provided that, in every such case, if the appellant shall prove to the satisfaction of the said commissioners that he or she hath been prevented from making such amended return within the time herein limited, by absence or sickness or other sufficient cause, and that such default, neglect, omission, or claim as aforesaid, was not wilfully made, and with intention to defraud the revenue, it shall be lawful for the said commissioners to remit and strike off the whole of the said double duty."

"Nineteenth.—Nothing herein contained shall be construed to grant the double duty, or any part thereof, on any of the said duties, if the party charged shall not, by the laws in force at and immediately before the passing of this act, be directed to return the article, matter, or thing on which the said duties shall be chargeable, and for which the said party was so charged."

"Twentieth.—Every increase of duty made by occasion of such charges, whether the whole of the double duty shall be remitted or not, and also the double duty, or such part thereof which shall not be remitted, shall be certified on the supplementary assessments to be made for each year under the hands of the said respective commissioners or any two of them, to the commissioners for the affairs of taxes; and the said commissioners for the affairs of taxes shall have authority to direct the receiver-general who shall have received the said increase and double duty, to pay to the said surveyor and inspector out of the same, in such proportions as they shall think proper, or to either of them, as they see fit, any sum of money not exceeding the rate which shall have been settled by the lords commissioners of the treasury, or the high treasurer for the time being, as a reward for their labour and diligence in making such increase of duty; and the certificate of the said commissioners for the affairs of taxes, or any three or more of them, shall be a warrant to the said receiver-general to pay the same."

"Twenty-first.—The determination of the commissioners acting for the general purposes of the acts relating to the duties arising from the profits of property, professions, trades, or offices, upon any objection made by the surveyor or inspector of the said duties to the estimate or value of any property, or to the estimate of the profits of any profession, trade, or office on which any assessment after appeal shall be made, shall be construed to preclude any surveyor or inspector from afterwards making a further charge on the same person or persons for the same property or profits for the same year of assessment; and, in like manner, the determination of the said commissioners upon every such objection to the estimates or value delivered by the assessors of the property in any parish, ward, or place in which assessments after appeal shall be made, shall preclude the surveyor or inspector from afterwards making a further charge on the same property in the same parish, ward, or place in that year."

"Twenty-second.—The objection of any surveyor or inspector to the estimate or estimates of any person or persons, or of the assessor or assessors of any parish, ward,

or place, or to any assessment or assessments of additional commissioners in pursuance of the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, and offices, shall not be construed to preclude any surveyor or inspector from afterwards charging the same person or persons for any other property, or the profits of any other profession, trade, or office not included in the estimate or estimates, assessment or assessments before objected to, and determined as aforesaid; nor to preclude any surveyor or inspector from afterwards objecting to any other estimate or estimates, or assessment or assessments, or from afterwards charging any other person or persons in the same parish, ward, or place, or in any other parish, ward, or place in the same or any other division, in respect of any property or the profits of any profession, trade, or office, not before objected to and determined as aforesaid; and the respective commissioners acting for the general purposes of the said last-mentioned acts are hereby strictly enjoined and required to sign and allow such last-mentioned objections and charges according to the directions of the said acts, in respect of the powers therein given to such surveyor and inspector; provided, that all such objections and charges be made within the times herein respectively limited."

"Twenty-third.—From and after the passing of this act, every objection to the estimates directed by the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, or offices, shall be made before the first assessments on such estimates shall have been signed and allowed by the commissioners for the general purposes of the said acts, and not afterwards."

"Twenty-fourth.—No charge upon any assessment under the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, or offices, shall be allowed or signed, unless the certificate thereof shall be delivered to the respective commissioners before the expiration of three calendar months after the 5th day of January in the year of such assessment, in case such assessment shall have been made on or before the said 5th day of January, or, if such assessment shall not then have been made, unless the certificate of charge thereon shall be delivered to the said commissioners within three calendar months after such assessment shall have been made, except in the cases hereinafter mentioned."

"Twenty-fifth.—If any person or persons shall have neglected to make a return of property or profits as required by the said last-mentioned acts, and no estimate of the said property or profits, nor any assessment, shall be made thereupon for any year, it shall be lawful for the surveyor or inspector, on discovery thereof, at any time within twelve calendar months after the expiration of the year when such return ought to have been made, to charge such person or persons to the amount which ought to have been returned, in like manner as such persons might have been charged within the year of assessment; and the like proceedings shall be thereupon had as if such discovery and charge had been made within the year of assessment; and every assessment thereupon made shall be added to the current assessments of the parish, ward, or place, in the manner herein directed."

"Twenty-sixth.—If any person or persons shall by any falsehood, wilful neglect, fraud, covin, or contrivance whatever, escape from taxation for the profits of any distinct property, profession, trade, or office for any year, it shall be lawful for the surveyor or inspector, within the like period of twelve calendar months as aforesaid, to charge such person or persons to double the amount of duty which ought to have been charged in the year of assessment upon such distinct property, profession, trade, or office; and upon proof of such falsehood, wilful neglect, fraud, covin, or contrivance, to the satisfaction of the commissioners to whom such charge shall be certified, the assessment on the said double duty shall stand good, and be added to the supplementary assessments of the current year of the parish, ward, or place; and no part thereof shall be remitted on any pretence whatever."

Sect. 2. "That the several provisions in the preceding clause of this act, relating to charges in the single duty as aforesaid, shall be construed, so far as the same respect the duties of assessed taxes in that part of Great Britain as aforesaid, as applicable to the provisions of an act passed in the forty-third year of the reign of his present majesty, intituled, 'An Act for Repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting New Duties in lieu thereof; for granting New Duties in certain Cases therein mentioned; for repealing the Duties of Excise on Licences, and on Carriages constructed by Coachmakers, and granting New Duties thereon, under the Management of the said Commissioners for the Affairs of Taxes; and also New Duties on Persons selling Carriages by Auction or Commission;' and any other act or acts for regulating the said duties

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

Objection to be made before assessment.

Charges to be made in a limited time.

When charges of property omitted may be made.

In case of fraud, charge to be made.

Provisions before mentioned relating to charges in single duty, and relating to surcharges in double duty, to be construed as applicable to the provisions of 43 Geo. 3, c. 161, and 46 Geo. 2, c. 65, &c.

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

Provisions in acts repugnant hereto repealed.

Commissioners acting not liable to suits.

Costs.

43 Geo. 3, c. 161, s. 29, repealed.

respectively, and relating to surcharges in the double duty, and as far as the said provisions respect the duties arising from the profits of property, professions, trades, and offices in that part of Great Britain as aforesaid, the same shall be construed as applicable to the provisions of an act passed in the forty-sixth year of the reign of his present majesty, intituled, 'An Act for granting to his Majesty during the present War, and until the Sixth Day of April next after the Ratification of a Definitive Treaty of Peace, further additional Rates and Duties in Great Britain on the Rates and Duties on Profits arising from Property, Professions, Trades, and Offices; and for Repealing an Act passed in the Forty-Fifth Year of his present Majesty, for Repealing certain Parts of an Act made in the Forty-Third Year of his present Majesty, for granting a Contribution on the Profits arising from Property, Professions, Trades, and Offices; and to consolidate and render more effectual the Provisions for collecting the said Duties;' and any other act or acts for regulating the said duties respectively, and relating to surcharges in the double duty, and as if the said provisions in the said clause of this act relating to charges in the single duty had been expressly applied to the provisions of the said acts respectively relating to surcharges in the double duty, and had been respectively enacted therein; and all provisions, clauses, matters, and things in the said several acts respectively, which are repugnant to the provisions in the said clause of this act, and for which other provisions are made in this act, except such provisions, clauses, matters, and things therein as relate to surcharges in the double duty which are herein declared to be applicable to the provisions of this act, shall severally cease and determine."

Sect. 3. "That in case any commissioner or commissioners acting in the execution of any such act or acts herein mentioned, or of this act, shall, by information, or other process or proceedings whatsoever at the suit or on the behalf of his majesty, his heirs or successors, be proceeded against or impleaded for or by reason of any matter or thing he or they may do or determine, or may refuse or omit to do in or about the execution of any such act or acts, and upon the trial of such information or other process a verdict shall be given, or any order or rule of court shall be made for such commissioner or commissioners, or such information or other process or proceeding shall be discontinued or withdrawn, or dismissed the court in which they shall have been prosecuted, then, and in either of the said cases, such commissioner or commissioners shall be entitled to his or their full costs of suit, to be taxed by the proper officer of such court as between attorney and client; and it shall be lawful for the commissioners for the affairs of taxes to direct the receiver-general of the county within which any such commissioner or commissioners shall act, and the said receiver-general is hereby required, to pay such taxed costs out of any money in his hands arising from the duties of assessed taxes, and which shall be allowed in the accounts of the said receiver-general."

Sect. 4. "That so much of an act made in the forty-third year of the reign of his present majesty, intituled, 'An Act for Repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting New Duties in lieu thereof; for granting New Duties in certain Cases therein mentioned; for Repealing the Duties of Excise on Licences, and on Carriages constructed by Coachmakers, and granting New Duties thereon, under the Management of the said Commissioners for the Affairs of Taxes; and also New Duties on Persons selling Carriages by Auction or on Commission,' as directs that every person who should begin to retain or employ any male servant, or other male person therein described, or keep or use any carriage (such servant or carriage not being in the place or stead of any former one liable to the like duty), or to use or exercise the trade of an horsedealer, or coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, or to wear or use hair-powder, or any armorial bearings or ensigns, or who should cease to retain or employ any male servant, or to keep or use any carriage liable to the duty without retaining or employing any other male servant or other male person therein described, or keeping or using any other carriage liable to the like duty in the place or

stead of such servant or carriage, or who should cease to use or exercise the said trade or business of an horsedealer, or of a coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, or to wear or use any hair-powder, or any armorial bearings or ensigns, should, within twenty days after he or she should so begin or cease to retain or employ such servant or other male person, or to keep or use such carriage, or to use or exercise such trade or trades, or to wear or use any hair-powder, or any armorial bearings or ensigns, cause notice thereof in writing to be given to the assessor or assessors for the district, parish, or place where he or she should reside, and a list of the number of such servants and carriages, and the increase or decrease made thereby, and the particular rate of duty to which he or she should be liable as having used or exercised such trade or trades, or worn or used hair-powder or armorial bearings or ensigns, describing in such notice every such servant or other male person by his proper name, and the several capacities in which servants or other male persons respectively should be or should have been retained or employed, and also describing every such carriage by its usual name and description, distinguishing the number of bodies used with, and of wheels belonging to each such carriage, and the number of horses used in drawing any such carriage with less than four wheels, and also distinguishing each such carriage liable as a taxed cart, and the name or names and place of abode of the person or persons who ought to return such lists; shall be, and the same is hereby repealed."

2. *The Acts regulating the Assessments and Collections, &c.*

50 Geo. 3, c. 105.

Notice to assessor.

Sect. 5. "That, in respect of the duties of assessed taxes, the said respective commissioners shall cause the duplicates required by the said act to be made out after the time appointed by the said act for making the supplementary assessments of the said duties yearly, and within one month at farthest after all appeals from the said supplementary assessments shall have been heard and determined, and so that the same may be delivered to the receiver-general and to the commissioners for the affairs of taxes respectively, on or before the day to be appointed for the receipt of the last instalment of the said duties next after the fifth day of April yearly; and in respect of the duties arising from the profits of property, professions, trades, and offices, the said respective commissioners shall cause the duplicates required by the said act to be made out after the time appointed by this act, for making the supplementary assessments of the said last-mentioned duties yearly, and within one month at farthest after all appeals from the said supplementary assessments shall have been heard and determined, and so that the same may be delivered to the receiver-general and to the commissioners for the affairs of taxes respectively, on or before the day to be appointed for the receipt of the last instalment of the said last-mentioned duties next after the fifth day of July yearly; and no clerk to the said respective commissioners who shall make out and deliver the respective duplicates required by the said act within the time aforesaid shall be sued or prosecuted for, or liable to the penalty contained in the said act by reason of not making out or delivering the said respective duplicates within the time directed by the said act."

Time for making out and delivering duplicates of assessments enlarged.

Sect. 6. "That no person who shall in the year 1810, or in any year, have made out, signed, and delivered in the manner directed by the said last-mentioned act made in the forty-third year of the reign of his present majesty, or shall in any future year make out, sign, and deliver in like manner, lists of the greatest number of servants or other male persons retained or employed, and of carriages, horses, mules, and dogs kept by such person, or of having worn or used hair-powder, or any armorial bearings or ensigns, in the course of the year ending on the fifth day of April preceding the delivery of such list, and who shall continue to retain or employ the like number and description of servants or other male persons, and keep the like number and description of carriages, horses, mules, and dogs respectively, or wear or use hair-powder, or armorial bearings or ensigns, in the like manner, subject to the like duty as in the year to which such list related, and in the same ward, parish, or place, shall be obliged to make out, sign, and deliver such lists, or either of them, in any succeeding year, nor be subject or liable to any penalty for omitting or neglecting so to do, so long as such person

No person having made out lists of the greatest number of servants, &c., shall be compellable to make out a fresh list.

*2. The Acts
regulating the
Assessments
and Collec-
tions, &c.*

50 Geo. 3, c. 105.

Proviso.

In what cases
double duty
struck off.

Time allowed for
delivering in
amended return.

Making false de-
claration, mis-
demeanor.

Indictment for
false declaration,
how laid, &c.

Arrears of duties
may be collected.

shall continue to reside in such ward, parish, or place, and shall not be chargeable in any other ward, parish, or place, for any servant, carriage, horse, mule, or dog kept by such person: provided always, that such person shall in each year deliver or cause to be delivered to the assessor or assessors of the ward, parish, or place, notice in writing that he or she is desirous of being charged for the same articles, matters, and things as in the preceding year; and every such notice shall be an authority for the said commissioners to charge such person in the first assessments for that year for the same articles, matters, and things respectively, for which such person stood charged in the assessments of the preceding year."

Sect. 7. "That in all cases of charge by any surveyor or inspectors as aforesaid, of any of the duties on servants, carriages, horses, mules, and dogs, and for using hair-powder or armorial ensigns, where it shall be proved, on appeal, to the satisfaction of the said commissioners acting for the division, that there was any doubt whether the article or articles so charged was or were rateable within the meaning of the said acts, or any of them, and that the omission thereof or alleged default was not wilfully made, and with intention to defraud the revenue, it shall and may be lawful for such commissioners to remit or strike off the whole of the double duty chargeable on the person or persons so charged."

Sect. 8. "That every person to be charged in pursuance of this act, by the certificates of any surveyor or inspector, shall have the full period of ten days after service of the notice of such charge, to deliver his or her amended return to such surveyor or inspector, according to the directions of this act, and no certificate of such charge shall be signed or allowed by the said commissioners, nor any appeal shall be heard from such charge, before the expiration of such period of ten days; and if the person so charged shall, before the expiration of the said period, deliver a return and declaration as aforesaid, which the said surveyor or inspector shall object to, then such return and declaration shall be deemed to be a sufficient notice of appeal from such charge to the commissioners of the division, who are hereby required to hear and determine the matter thereof, according to the directions of this act; and if the person so charged shall not, before the expiration of the said period of ten days, deliver a return or declaration as aforesaid, it shall be lawful for the said commissioners, upon the appearance before the said commissioners of the person charged, or some person on his or her behalf, and the delivery to them of such list and declaration as is hereinbefore required on the day or days appointed for hearing appeals from the charges of such surveyor or inspector, to hear and determine the matter of such charge, according to the directions of this act, notwithstanding the person so charged shall not have given any previous notice of his or her intention to appeal; provided, that in default of the appearance of the party charged before the said commissioners, or some person on his or her behalf, on such day or days of appeal, or in default of the production of such list or declaration as aforesaid, the certificate of such charge shall be confirmed by the said commissioners."

Sect. 9. "That if any person, in any such declaration as aforesaid, shall wilfully and fraudulently declare any matter or thing which shall be false or untrue, every person so offending, and being thereof lawfully convicted, shall be judged guilty of a misdemeanor, and shall be committed to the gaol of the county, riding, or shire, where such offence shall be tried, for any space of time not exceeding six calendar months, and shall be fined in such sum, not exceeding treble the amount of duty for which such person shall have been charged, as the court before whom such trial shall be had shall think fit to order."

Sect. 10. "That any indictment for such misdemeanor, in making a false declaration as aforesaid, whether such declaration shall be made within Great Britain or without, shall be laid, tried, and determined in the county, riding, or shire, where such declaration shall be exhibited to the respective commissioners of the duties to which such declaration shall relate."

Sect. 11. "And whereas, by an act passed in the forty-eighth year of the

reign of his present majesty, intituled, 'An Act to amend the Acts relating to the Duties of Assessed Taxes, and of the Tax upon the Profits of Property, Professions, Trades, and Offices, and to regulate the Assessment and Collection of the same, certain Rules and Directions are contained for paying to the Receiver-General, and accounting for the Duties received by the Collectors in that part of Great Britain as aforesaid: and whereas it is expedient that the same should be altered and amended in certain Particulars; be it further enacted, that whenever any schedule of arrears shall have been, or shall be transmitted by the respective commissioners acting in the execution of the acts in relation to the duties therein mentioned, or any of them, to the receiver-general of the said respective duties, and the commissioners for the affairs of taxes shall be of opinion that the said duties in arrear might more conveniently be collected by the respective collectors of the said duties in their respective districts, according to the directions of the several acts granting the said duties, or other acts relating to the said respective duties, than by process to be issued out of the Court of Exchequer, it shall be lawful for the said commissioners for the affairs of taxes to direct the said receiver-general to return the said schedules to the said respective commissioners from whom he or they received the same; and the said respective commissioners shall cause the said duties in arrear to be levied, under all or any of the powers, and by any of the ways and methods, prescribed in the said acts respectively, without delay."

3. *Of the Assessed Taxes themselves.*

50 Geo. 3, c. 105.

III. Of the Assessed Taxes themselves. (a)

The assessed taxes themselves are annual duties charged as follows: Until the passing the act 43 Geo. c. 161, most of these duties were imposed by numerous separate statutes; but that act reciting that *the several acts might be more effectually carried into execution if the provisions for ascertaining, charging, and assessing the duties were comprised in one act, and varied and amended in some respects, enacted, that in lieu and instead of the duties granted by or contained in the several schedules annexed to the prior recited acts, and thereafter repealed, there shall be assessed, raised, levied, collected, and paid certain duties specified in the schedules to that act; and then refers to those ten schedules of different descriptions of taxes, by letters A, B, C, D, E, F, G, H, I, and K, viz.—A. of duties payable for every dwelling-house within and throughout Great Britain, according to the number of windows or lights in each. B. of duties made payable on all inhabited dwelling-houses, according to the value thereof. C. of duties payable annually for every male servant retained or employed in certain named capacities. D. of duties payable on carriages therein mentioned. E. of duties payable for horses, mares, and geldings used as therein mentioned. F. of duties payable for other horses, not charged with duty in last schedule and on mules. G. of duties payable on dogs. H. of duties payable by horse-dealers. I. of duties payable by persons wearing hair-powder. K. of duties payable for using armorial bearings.*

Ten schedules, each relating to different subjects of taxation.

The Statutes 48 Geo. III. c. 55, and 52 Geo. III. c. 93, and schedule L. of duties payable for selling game.

The act 43 Geo. III. c. 161, and the schedules thereof, contained rules for charging the duties, together with certain modifications, reductions, and exemptions; and also provides that the duties granted by that act shall be levied pursuant to the regulations of the 43 Geo. III. c. 99 (*ante* p. 928 to 960), and

(a) See general division of the subject, *ante*, p. 924. The 38 Geo. III. c. 40, s. 41, transferred the management of the assessed taxes to the commissioners for the affairs of taxes. The 43 Geo. III. c. 99, reciting such transfer, then intro-

duces the new *general regulations*, relative to such assessed taxes, *ante*, p. 928; and the act 43 Geo. III. c. 161, and subsequent acts, contain other *particular regulations*.

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

in Scotland under the regulations in 43 Geo. III. c. 150; and enacts that the commissioners, inspectors, surveyors, assessors, and collectors, acting under the said acts (43 Geo. III. c. 99, and c. 150), shall execute all matters and things in relation to the duties by that act granted.

By several subsequent acts, hereafter noticed, new provisions were introduced, and the amount of duties increased, diminished, or repealed, as the exigencies of the public have required. But still as this principal act, 43 Geo. III. c. 161, is the main regulating act, it is deemed expedient first to state its provisions, then the subsequent regulations, and lastly the several schedules of duties. We will, therefore, consider the third branch of the subject under two heads, viz. *First*, the *Regulations* of the 43 Geo. III. c. 161, and subsequent acts; and, *secondly*, the several *Duties*, with the particular rules and exemptions affecting them.

Regulations, &c.

First.—THE REGULATIONS OF 43 GEO. III. c. 161, AND SUBSEQUENT ACTS.

It will be perceived, on referring to the provisions of this act, and subsequent acts, that they may be properly subdivided and arranged under the following heads, viz:—

1. *The Commissioners, Inspectors, Surveyors, Assessors, and Collectors*, 43 Geo. III. c. 161, s. 6, 8.
2. *The Assessments and returning Lists of Persons liable*, ss. 25, 26, 28, 30, 31, 32, 52, 33, 34 to 38, 43, 44, 49, 50.
3. *Of Amending Assessments, and of Surcharges, and of Appeals and Cases for Opinions of Judges*, ss. 62 to 76; 45 Geo. III., c. 71, s. 3; 4 Geo. IV. c. 11, s. 7.
4. *Provisions for facilitating the Recovery of Duties*, 43 Geo. III. c. 161, ss. 23, 51, 53 to 56, 58, 59.
5. *General Regulations relating to the Execution of the Act* 43 Geo. III. c. 161, ss. 9, 16, 78, 79, 81, 86, 80.

But it will be better to print all the sections of this principal act, 43 Geo. III. c. 161, continuously, and then to state the subsequent enactments.

The 43 Geo. III. c. 161. (a)

43 Geo. 3, c. 161.

“An Act for repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting New Duties in lieu thereof; for granting New Duties in certain Cases therein mentioned; for Repealing the Duties of Excise on Licences, and on Carriages constructed by Coachmakers, and granting New Duties thereon, under the Management of the said Commissioners for the Affairs of Taxes; and also New Duties on Persons selling Carriages by Auction, or on Commission.”

42 Geo. 3, c. 34.

“Whereas the several acts in relation to the duties on houses, windows, and lights, and to the duties on inhabited houses, which were consolidated with the duties granted by an act, passed in the last session of parliament, intituled, ‘An Act for granting to his Majesty certain Additional Duties on Windows or Lights, and on Inhabited Houses, and for Consolidating the same with the present Duties thereon;’ and also the several acts in relation to the duties on male servants, carriages, horses, mules, and dogs, which were consolidated with the duties granted by another act, passed in the last

(a) This act, as to the amount of duties in schedules, was repealed by 48 Geo. III. c. 55, s. 2, and new schedules are annexed to that act. The last-mentioned schedules, as far as respects the duties on certain carriages, was affected by 50 Geo.

III. c. 104; 4 Geo. IV. c. 11; and 6 Geo. IV. c. 7; and the 52 Geo. III. c. 93, and subsequent acts alter some of the schedules. The existing schedules will be printed at length, *post*.

session of parliament, intituled, 'An Act for granting to his Majesty certain additional Duties on Servants, Carriages, Horses, Mules, and Dogs, and for consolidating the same with the present Duties thereon;' and also certain acts, passed in the thirty-sixth and forty-first years of the reign of his present majesty respectively, intituled, the one thereof, 'An Act for repealing the Duties on Licences to Persons using or exercising the Business of an Horse-Dealer, and granting New Duties in lieu thereof;' and the other thereof, 'An Act for transferring the Receipt and Management of the Duties on Licences for using or exercising the Trade and Business of an Horse-Dealer from the Commissioners of Stamps to the Commissioners for the Affairs of Taxes, and also for making further Provisions in respect to the said Duties so transferred;' and also an act, passed in the forty-first year of the reign of his present majesty, intituled, 'An Act for transferring the Receipt and Management of certain Duties on Certificates for wearing Hair-Powder, or using Armorial Bearings, from the Commissioners of Stamps to the Commissioners for the Affairs of Taxes, and also for making further Provisions in respect of the said Duties so transferred;' might be more effectually carried into execution, if the provisions for ascertaining, charging, and assessing the same, were comprised in one act, and varied and amended in some respects; be it therefore enacted," "that from and after the fifth day of April, 1804, throughout that part of Great Britain called England, Wales, and Berwick-upon-Tweed, and from and after the 24th day of May, 1804, throughout Scotland, in lieu and instead of the duties granted by or contained in the several schedules annexed to the said recited acts, and hereinafter repealed, there shall be assessed, raised, levied, collected, and paid unto and for the use of his majesty, his heirs, and successors, upon houses, windows, and lights, as set forth in the schedule to this act annexed, marked (A.); and upon inhabited houses, as set forth in the schedule to this act annexed, marked (B.); and upon all male servants retained or employed by any person or persons in any of the several capacities mentioned in the schedule to this act annexed, marked (C.); and upon all carriages of any of the descriptions mentioned in the schedules to this act annexed, marked (D.); and upon all horses, mares, and geldings, kept and used by any person or persons for any of the purposes mentioned in the schedule to this act annexed, marked (E.); and upon all other horses, mares, or geldings, not charged with any duty by the before-mentioned schedule (E.), and upon mules as described in the schedule to this act annexed, marked (F); and upon all dogs of any of the descriptions mentioned in the schedule to this act annexed, marked (G.); and upon all horse-dealers residing within the respective limits described in the schedule to this act annexed, marked (H.); and upon all persons in respect of hair-powder, or any armorial bearings or ensigns as respectively set forth in the schedules to this act annexed, marked (I.) and (K.); the several duties respectively inserted, described, and set forth in the said several schedules marked (A.), (B.), (C.), (D.), (E.), (F.), (G.), (H.), (I.), and (K.) hereunto annexed, which several schedules, and the rules and exemptions therein contained, shall be deemed and construed a part of this act, as if the same were incorporated therewith under a special enactment."

Sect. 2. "And whereas, by an act passed in the twenty-fifth year of the reign of his present majesty, intituled, 'An Act for granting to his Majesty certain Duties upon Licences to be taken out by Coachmakers, and also certain Duties upon Carriages to be built for Sale,' certain excise duties were granted in Great Britain on licences taken out by such coachmakers, and also on carriages with four or two wheels respectively, which should be built or constructed for sale: and whereas it is expedient that the said duties should be repealed, and other duties should be granted in lieu thereof on coachmakers, and on carriages constructed by them for sale, to be placed under the management of the commissioners for the affairs of taxes, and also

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

42 Geo. 3, c. 37.

36 Geo. 3, c. 17.

41 Geo. 3, (U. K.)

c. 71.

41 Geo. 3, (U. K.)

c. 69.

From April 5, 1804, in England, and from May 24, in Scotland, duties on windows (A.), houses (B.), servants (C.), carriages (D.), horses (E.), mules (F.), dogs (G.), horse-dealers (H.), hair-powder (I.), armorial bearings (K.), shall be levied according to schedules of this act, in lieu of former duties (a).

Excise duties under 25 Geo. 3, c. 49, on licences to coachmakers, and on carriages built for sale, repealed, except as to arrears (a).

(a) It seems that sects. 1, 2, 3, 4, are virtually repealed by 48 Geo. III. c. 55, s. 2.

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

* See s. I.

Duties in schedule D. 5 & 6, imposed on coachmakers, carriages built for sale, and persons selling carriages.

Duties granted by this act shall be levied under the regulations of 43 Geo. 3, c. 99 (England), and c. 150 (Scotland).

Commissioners of land-tax qualified as under 38 Geo. 3, c. 5, &c., shall be commissioners for executing this act; monies levied shall be under management of Tax Office.

Sheriffs depute, &c., in Scotland, may act as commissioners.

the like duties on persons vending the same by way of auction, or on commission, for or in the expectation of profit; be it further enacted, that all duties granted by the said last-recited act shall, from and after the respective days before mentioned in the respective parts of Great Britain, * cease and determine, save and except in all cases relating to the recovering or paying any arrears of the said duties by the said act granted, which on that day shall remain unpaid, and the several clauses and provisions for receiving and recovering the same."

All Excise licences shall cease from the days fixed for the repeal of the duties (see sect. 1), and commissioners shall return a portion of the duty for the time then unexpired (see sect. 3).

Sect. 4. "That, from and after the respective days before mentioned, in England and Scotland respectively, there shall be raised, levied, collected, and paid to his majesty, his heirs and successors, the several duties on coachmakers, and on carriages built and constructed by them for sale, in lieu and instead of the duties hereby repealed, and also the new duties on persons vending such carriages by auction or commission for or in expectation of profit, severally contained in schedules (D.) No. 5 and 6, which schedules shall be construed a part of this act, and as the other schedules to this act are directed to be considered."

Sect. 5. "That all the several duties hereby granted in England, Wales, and Berwick-upon-Tweed, shall be assessed, raised, levied, and collected under the regulations of an act passed in the present session of Parliament, intituled, 'An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same;' and all the several duties hereby granted in Scotland shall be assessed, raised, levied, and collected, under the regulations of any act passed or to be passed in the present session of parliament, for consolidating certain of the provisions contained in any act or acts relating to the duties under the management of the commissioners for the affairs of taxes, and for amending the said acts as far as the same relate to Scotland; and all and every the powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things contained in the said acts, shall be severally and respectively duly observed, practised, and put in execution, throughout the respective parts of Great Britain aforesaid, as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things, were particularly repeated and re-enacted in the body of this act; and all and every the regulations of the said acts shall be respectively applied, construed, deemed, and taken to refer to this act, as if the same had been specially enacted therein."

Sect. 6. "That, for the better execution of this act, and for the ordering, raising, collecting, levying, and paying of the several sums of money hereby made payable, all and every the persons who now are, or for the time being shall be commissioners for putting in execution an act, passed in the 38th year of the reign of his present majesty, intituled, 'An Act for the granting an Aid to his Majesty by a Land-Tax to be raised in Great Britain, for the Service of the Year One Thousand Seven Hundred and Ninety-Eight;' and who shall be respectively qualified or authorized to act, and shall have taken the oaths as directed by the said respective acts passed in the present session of parliament, shall respectively be commissioners for putting in execution this act, and the powers therein contained, in all and every the respective counties, ridings, cities, boroughs, cinque-ports, towns, and places, privileged or not privileged, within England, Wales, and Berwick-upon-Tweed, and in all and every the shires, stewartries, cities, and boroughs, in Scotland; and the several sums of money so levied shall be under the care and management of the commissioners for the affairs of taxes for the time being, appointed or to be appointed by his majesty, his heirs and successors."

Sect. 7. "That the sheriff depute and sheriff substitute in each shire or stewartry in Scotland shall by virtue of such office, without other qualification, execute this and the said last-recited act, as commissioners in the shire

or stewardry for which they are appointed sheriff depute and sheriff substitute respectively, and shall not be liable to any penalty or forfeiture for acting therein without the qualification before required."

Sect. 8. "That the assessors and collectors appointed by the said commissioners for any parish, ward, or place, in pursuance of the said recited acts respectively, passed in the present session of parliament, shall be the assessors and collectors of the several duties granted by this act; and the said commissioners shall cause notice to be given to such persons, that they respectively are appointed assessors and collectors of the said duties hereby granted; and the several commissioners, inspectors, surveyors, assessors, and collectors, are hereby empowered to do and execute all matters and things in relation to the duties by this act granted, which they respectively are empowered to do and execute in relation to the duties mentioned in the said recited acts respectively, and shall severally be subject and liable to the like penalties for any neglect or omission in the performance of their duty, or any fraud or abuse in executing the same, as are inflicted on such officers by the said recited acts respectively for the like offences."

Sect. 9. "That the several persons who, as inspectors or surveyors, are or may be authorized to act in execution of the said recited acts respectively, passed in the present session of parliament, shall respectively have the survey and inspection of the duties by this act made payable within the respective parts of Great Britain, as aforesaid, and shall take accounts of the several dwelling-houses therein, and of the servants, carriages, horses, mules, and dogs, kept by any person or persons whatever, and of the several persons liable to the other duties in this act mentioned, and of the duties chargeable in respect thereof, and shall inspect and examine the assessments or certificates thereof made and to be made, from time to time, in pursuance of this act, and execute all things belonging to the same, according to the powers vested in them by this and the said recited acts respectively, provided that no inspector or surveyor now or hereafter to be appointed shall act as a commissioner in any matter or thing touching the execution of this act."

Sect. 10. "That every dwelling-house, cottage, or tenement, of whatever description, occupied at the time of making the assessment, shall be brought into charge in respect of the duties set forth in the schedule marked (A), by the respective assessors, and, in their default, by the respective surveyors and inspectors herein mentioned, according to the number of windows therein, *subject to the powers of discharging the same, as after mentioned*; (a) and every dwelling-house, cottage, or tenement, and other the premises therewith occupied, and hereby charged, as set forth in schedule (B), being, together, of the annual rent of 5*l.* or upwards, (b) shall also be brought into charge in like manner, according to the full and just yearly rent at which the same is really and *bonâ fide* worth to be let, in respect of the duties set forth in the said schedule marked (B); and, if any assessor or assessors shall omit, in the assessment of the said duties set forth in schedule (A), to charge the occupiers of any house, cottage, or tenement, to the said duties, according to the number of windows therein, or shall omit, in the assessment of the said duties set forth in schedule (B), to charge the occupier of any house, cottage, or tenement, which, with the premises therewith occupied and charged by this act, shall be of the annual value of 5*l.* or upwards, to the said duties, according to the annual rent at which the same is really and *bonâ fide* worth to be let, whether the occupier of any such house, cottage, or tenement, shall be entitled to be discharged from the same in manner hereinafter mentioned or not, every such assessor shall, for each and every such neglect, forfeit and pay any sum not exceeding 20*l.*, nor less than 5*l.*; and where any such dwelling-house, or premises therewith occupied, shall be situate within more parishes or places than one, then such dwelling-house shall be charged to the said several duties as one entire house, and the premises therewith occu-

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Commissioners, assessors, collectors, &c., under 43 Geo. 3, c. 99, s. 150, shall execute this act.

Duty of inspectors and surveyors.

No inspector, &c., shall be commissioner.

Every house occupied at the time of making the assessment, shall be brought into charge under sched. (A.) & (B.) subject to discharge (see *post*, ss. 11, 12).

Penalty on assessors for neglect, 20*l.* to 5*l.*

Houses situate within more parishes than one may be charged in either parish.

(a) See *post*, p. 998, in the note.

(b) By 6 Geo. IV. c. 7, s. 1, the duties

on inhabited houses under the value of 10*l.* per annum are repealed.

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Exemption for poor persons from duties on windows, under schedule A. (See s. 12.)

Manner in which the claim to exemption from duties in schedules A. & B. shall be proved, and the party discharged.

* See s. 13.

Exemptions may be allowed on the present assessments.

Before exemptions are allowed, assessors shall produce certificate of inability of the party, from the minister and inhabitants of the parish.

pied as belonging to such house in such of the said parishes or places as the surveyor or inspector for the said duties, or any part thereof, shall deem most expedient, to be notified by the certificate of such surveyor or inspector to the commissioners acting for either of such parishes or places."

Sect. 11. "That any person inhabiting a dwelling-house in England, Wales, or Berwick-upon-Tweed, containing not more than six windows in the whole, shall be exempted from the duties in schedule (A), in case such person shall be on the books of such parish or place as receiving parochial relief; and any person inhabiting a dwelling-house in Scotland, containing not more than three windows in the whole, and under the annual rent of 20s., shall be exempted from the duties in schedule (A), in case such person shall be poor and indigent, and shall not be assessed, or liable to be assessed, to any of the duties contained in schedules (B), (C), (D), or (E); which several exemptions shall be proved or claimed in the manner hereinafter mentioned."

Sect. 12. "And, in order to give relief to such persons, as aforesaid, who may be charged to the said several duties set forth in the schedules marked (A) and (B), or either of them; be it further enacted, that where any such house, cottage, or tenement, as is described in the preceding clause, shall be brought into charge, as aforesaid, and the occupier or occupiers thereof shall be entitled to the said exemption, by reason of poverty, as hereinbefore specified, then, and in every such case, the assessor or assessors shall, on the certificate of assessment, set opposite the sum charged on the occupier thereof the fact of his or her being poor, and shall return the same, together with the assessment and a certificate, as hereinafter is mentioned,* to the commissioners for executing this act in the district where such assessment shall be made; and the said commissioners, before the allowance of any such assessment, or making any order thereupon, shall examine the assessor or assessors, who shall respectively attend the said commissioners for that purpose, at such time as they shall appoint, touching the return so made; and if the said commissioners shall, from such examination and from such certificate, as hereinafter is mentioned, be satisfied that any occupier of any such house, cottage, or tenement, charged to the said several duties, or either of them, is entitled to such exemption, it shall be lawful for the said commissioners, after such proof thereof, to strike out the charge against such occupier, leaving the name of such occupier, and the number of windows and rent of such house, in the assessment, and every such occupier shall be exempted accordingly from the said respective duties; which exemption shall, in the like cases, be construed to extend to and shall be allowed on all assessments on such poor persons, of the duties payable at the time of passing this act, which shall have been or shall be made at any time after the commencement of the present year."

Sect. 13. "That before any such exemption or abatement shall be allowed, the assessors shall produce to the said commissioners a certificate under the hands of five or more substantial householders of such parish or place, in vestry or kirk-session assembled, of whom the resident minister in such parish or place shall be one; but in case there shall be no such resident minister in such parish or place, then the churchwardens and overseers of the poor of such parish or place, or two of them at the least, or two or more of the elders of such parish or place, shall concur with such householders in such certificate, certifying thereby that they have carefully examined the assessment of the duties granted by this act, and the allegations therein made by the assessors touching such persons who shall be therein stated to be poor, and that in their judgment and belief the persons therein certified to be poor are entitled to be exempted by reason of their poverty, and are wholly unable to pay the duties assessed upon them; provided, that if in any parish or place in England, Wales, or Berwick-upon-Tweed, there shall not be five substantial householders, then such certificate may be made by the substantial householders there residing; or if there shall be no churchwardens or overseers of the poor for such parish or place, then such certificate may be granted by the resident minister, or by any two churchwardens or overseers

of the poor of any adjoining parish or place, who can certify the truth of such allegations in manner aforesaid, concurring therein with the substantial householders residing in the parish or place where such assessment shall be made." *3. Of the Assessed Taxes themselves.*

Sect. 14. "That where the occupier of any house, cottage, or tenement, containing more than the number of windows or lights before specified, shall be brought into charge as directed by this act, and the occupier or occupiers thereof shall, at the commencement of the year for which such assessment is made, be poor and indigent, or shall become so during that year, then, and in every such case, it shall be lawful for such occupier or occupiers to give notice thereof in writing, stating the causes to the assessor, or to the surveyor of the district in which such house is situate, annexing thereto a certificate under the hands of such persons, as aforesaid, certifying that, in their judgment and belief, such person is justly entitled to relief, on account of poverty, for the causes mentioned in such notice; and every assessor shall deliver the notices by him received to such surveyor; and, if such surveyor shall be satisfied of the truth thereof, after due examination of the facts and circumstances, and that such person is unable to pay the duties charged on him or her, and has no probable means of bettering his or her condition within that year, he is hereby required to certify the same to the said commissioners; and if such surveyor shall not be so satisfied, then, on notice thereof to such occupier or occupiers, it shall be lawful for him or them to appeal from such charge to the said commissioners, giving ten days' previous notice thereof to the said surveyor; and, in every case where the surveyor shall certify to the said commissioners that he is satisfied of the truth of the claim made by any such occupier or occupiers, and that he or they is or are and will be unable to pay the duties charged on him or her within that year, or if, upon appeal, as aforesaid, it shall appear to the satisfaction of the said commissioners, or the major part of them present, on the oath of such appellant, or by other lawful evidence on oath, produced and shown by such appellant, that he or she is entitled to maintain such appeal, and wholly unable, as aforesaid, to pay the duties charged on him or her, it shall be lawful for the said commissioners to give such relief, either by striking off the whole of the duty so charged, or diminishing the same, as to them shall seem meet and necessary; and which appeals, for the causes in this clause mentioned, may be heard and determined either on the days mentioned in this act for the hearing of appeals in other cases, or at the end of the year, or any day or days to be appointed by the respective commissioners for executing this act; which exemption shall, in the like cases, be construed to extend to and shall be allowed on all assessments on such poor persons of the duties payable at the time of passing this act, which shall have been or shall be made at any time after the commencement of the present year."

Sect. 15. "That every house or tenement which shall happen to be unoccupied at the time of making the assessment shall be inserted as such in the assessment, with the number of windows contained therein, and the annual rent at which the same might be let, if the same shall amount to 5*l.* or upwards; and the assessors, and, in their default, the surveyors and inspectors, shall cause the same to be certified to the said commissioners, from the time of such house or tenement coming into the occupation of any person or persons, and such person or persons shall cause notice thereof to be given to such assessor, surveyor, or inspector, within twenty days after his or their coming into the occupation of such house or tenement; and every person neglecting so to do shall forfeit and pay the sum of 5*l.*, and shall be liable moreover for such neglect to be charged to the said several duties

43 Geo. 3, c. 161.

How occupiers of houses containing more than the number of windows before specified (see s. 11) may be relieved from the duties.

Such exemption may be allowed upon the present assessments.

Unoccupied houses shall be inserted in assessment.

In-coming occupier shall give notice, and be charged with duties from end of the preceding quarter. Penalty 5*l.* and the full duties (a).

(a) See schedule B, *post*, p. 1041. It has been held that the owner of a house, occupied by him till the 26th of June, is chargeable with the assessed taxes for the remainder of the year that is, till the succeeding 5th of April,—although he quitted possession on the 26th of June, and ceased to occupy the house afterwards. (*Price's case*, 8 *Price's Rep.* 122.)

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

On notice given of houses becoming unoccupied, commissioners may discharge or levy assessment.

Commissioners, inspectors, &c. may inspect poor-rates.

inserted in the assessment for the whole year in which such house or tenement became so occupied; but, on giving such notice, shall be chargeable only from the time of his or her coming into the occupation of such house or tenement, according to the rates prescribed in schedules (A) and (B), estimated on the remainder of such year, commencing from the end of the preceding quarter of the year; and every house or tenement charged to the said duties, although the same shall within the year become unoccupied in the manner mentioned in schedule (A), shall be charged to the said duties for the whole year on the former occupier, or the occupier for the time being, as the case may require, unless notice in writing shall have been given to the assessor for the place of such house or tenement becoming unoccupied; and the commissioners for executing this act are hereby empowered, at their discretion, to discharge such assessment, or to direct the duties to be levied according to the directions of this act, as to them shall seem just" (a).

Sect. 16. "And, for the better information of the commissioners appointed to carry this act into execution, and of the surveyors and persons to be

Semble, that houses left unoccupied by the owner during part of the year, where the furniture is not taken away, are liable to the duties for the whole year. (*In re Colyton*, 8 Price, 117.)

Houses let as lodgings in places of public resort, and which are so occupied by the various families hiring them for the season (much less than half-a-year at a time), and are, during the remainder of the year, left wholly unoccupied, are chargeable to the assessed taxes for the entire year. (*Sollett and Glass's case*, 8 Price, 123.)

Persons letting houses furnished, as lodging-houses, for a part of the year, not being at any time occupied for more than six months successively, and paying three quarters of year's assessed taxes, are still liable to be charged for the other quarter; and the commissioners have no power to make any abatement in the assessment; although, during the quarter for which the abatement be claimed, the houses have not been opened. (*Skinner's case*, 8 Price, 124.)

A person keeping a house for the purpose of being let as a ready-furnished lodging-house is chargeable for the whole year's duty, although it be unoccupied and unfurnished for one entire quarter. (*Wright's case*, 8 Price, 125.)

The windows of a shop on the ground floor of a dwelling-house, having no internal communication with the house, are chargeable with the duty. (*In re Reinhardt*, 8 Price, 106.)

The lower part of a smaller house, used as an office, adjoining the dwelling-house of the party, and having an internal communication with the latter, is not exempt from the assessed taxes on windows within the first section of the 57 Geo. III. c. 25, on the ground of its being used as offices, and for no other purpose.

Nor is a room, having no communication with the dwelling-house, if it be part

of the house, within the exemption of the statute, as being used only for an office. (*R. v. Dryden*, 8 Price, 103.)

The windows of the upper story of a house, of which the lower part or ground floor is occupied by the owner as a dwelling, are chargeable with the duties on houses and windows, although let to a trader as a warehouse, and not used by him for any purpose of habitation, and although there be no communication between the upper story so let and the lower part of the house so occupied for habitation. (*In re Cowell*, 8 Price, 105.)

Houses built on lands embanked from the Thames, in pursuance of the 7 Geo. III. c. 37, which vests those lands in the owners, "free from all taxes and assessments whatsoever," are not liable to be rated for the relief of the poor. (*R. v. the City of London Gas Light and Coke Company*, M. & R. Rep. vol. 2, 12; 8 B. & C. 54.) But this act does not exempt the occupiers of such houses from the payment of the house and window duties imposed by 38 Geo. III. c. 40. (*Perchard v. Heywood*, 8 T. R. 468; *Williams v. Prichard*, 4 T. R. 2.)

(a) The commissioners executing the several acts relating to the duties of assessed taxes for districts are not entitled, under the 43 Geo. III. c. 161, s. 15, empowering them to discharge assessments at their discretion, to discharge persons charged for houses under sect. 10, on the ground of not having been occupied during the whole year, *unless notice in writing* have been given to the assessor of such houses having been unoccupied. And, if the commissioners should insert any such allowance in their schedule of discharge (as in that case the opinion of the judges cannot be taken, because that can only be done on a case of appeal), the Court of Exchequer will order them to amend their schedule by striking it out. (*In re Colyton*, 8 Price, 117.)

appointed assessors as aforesaid, and the better to enable them to perform their duty; be it further enacted, that the said commissioners, or any two or more of them, and the said surveyors, inspectors, and assessors, or any one or more of them, or any person or persons authorized by them, or any of them, shall have liberty, from time to time, and at all seasonable times, to inspect and to take copies or extracts from any book or books kept by any parish officer or officers, or other person or persons, of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk-sessions in the respective parts of Great Britain aforesaid, in any place within the limits for which they shall be appointed; and if any person or persons, in whose custody or power any of the said books shall be, shall refuse or neglect to permit the said inspection, or the copies or extracts to be made, as aforesaid, or to attend the said commissioners with their books, when required so to do, then, and in every such case, every person who shall so refuse or neglect, shall for every such offence forfeit and pay any sum not exceeding ten pounds."

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Penalty on refusal not exceeding 10*l*.

Notice shall be given to assessor by occupiers of houses, managers of hospitals, &c., entitled to exemption from duties under rules in schedules A. and B.

* See s. 12.

How windows shall be stopped up (a).

Proviso for windows in roofs and other windows already stopped up.

Windows shall not be made, restored, or stopped up, without six days' notice to surveyors.

Sect. 17. "That where any house, cottage, or tenement, or any windows therein, or any hospital, charity-school, poor-house, or licensed chapel, ought to be exempted from the duties hereby payable, by virtue of any of the rules contained in the schedules marked (A) and (B), hereunto annexed, the occupier or occupiers of such house, cottage, or tenement, and the person or persons having the conduct or management of such hospital, charity-school, poor-house, or licensed chapel, shall give notice thereof to the assessor or assessors, which notice shall contain the number of windows in such house, cottage, or tenement, and in such hospital, charity-school, poor-house, and licensed chapel respectively, distinguishing the number chargeable by this act, and the number claimed to be exempted as aforesaid: and the assessor or assessors shall make diligent inquiry into the same, and shall state on the assessment, to the best of his or their knowledge and belief, the number of windows entitled to such exemption, and shall return such statement, together with the assessment, to the commissioners for executing this act; and the said commissioners shall examine into the truth of such statements, by examination of the assessor or assessors, in manner before directed in cases of occupiers to be discharged for poverty,* and, on due proof thereof, it shall be lawful for the said commissioners to discharge such number of windows from the said assessment as in their judgment shall be within the exemptions allowed by this act."

Sect. 18. "That no window or light shall be exempted from the duties made payable by this act by reason of its having been stopped up, unless such window or light shall be stopped up effectually with stone or brick, or with the same kind of materials whereof that part of the outside walls of such dwelling-house, in which such window or light shall have been, doth chiefly consist."

Sect. 19. "That nothing herein contained shall be construed to charge any window or light in the roof of any dwelling-house which shall be stopped up on the outside thereof effectually with materials of the like nature of which the outside of the roof shall chiefly consist, nor any window or light which shall have been stopped up before the commencement of this act, according to the directions of the laws in force at the time of passing this act."

Sect. 20. "That, from and after the passing of this act, no window or light shall be newly opened or made in any dwelling-house or office belonging thereto, nor shall any such window or light which shall have been stopped up at the time when the assessment in respect of such dwelling-house shall be made for the then current year, be restored, nor shall any window or light which has been charged in that year be stopped up, without, in each of the cases, six days' previous notice thereof in writing being

(a) See, also, the rules in 48 Geo. III. c. 55, schedule A, *post*, p. 1034.

3. Of the Assessed Taxes themselves.

43 Geo. 3, c. 161.

Penalty 10*l.* per window.

Surveyors shall charge windows newly made, or restored, from commencement of the year.

Such windows in certain cases liable to double duties.

Appeal.

No abatement for windows unless stopped before commencement of the year.

Every assessment in England shall be for a year, from April 5, payable quarterly ;

under warrant of commissioners.

Arrears recoverable as a debt on record.

given by the occupier or occupiers of such dwelling-house, to the surveyor or inspector of the said duties, or one of them, for the place in which the assessment was made, describing therein the particular situation of every such window or light in such dwelling-house, and the number of such windows or lights, if more than one, so to be made, restored, or stopped up, on pain that the occupier or occupiers of such dwelling-house, neglecting to give such notice, shall forfeit and pay the sum of 10*l.* for every window or light so newly made, restored, or stopped up as aforesaid, and which penalty shall be paid over and above any duty payable in respect of such dwelling-house."

Sect. 21. "That in case any surveyor or inspector herein mentioned shall receive any notice, or shall otherwise find or discover that any window or light in any such dwelling-house, liable to the said duties, hath been newly made or restored as aforesaid, which window or light hath not been charged in the assessment for that year, then such surveyor or inspector shall and is hereby required to certify the same in writing under his hand, by way of charge, to any two or more of the commissioners for putting this act in execution, and shall state in such certificate to what amount the person or persons liable to the said duties hath or have been underrated in the assessment for that year; and thereupon the said commissioners, or any two or more of them, shall cause such assessment to be amended according to such certificate, and the duties to be charged shall be levied thereon, from the commencement of the year in which such window or light shall have been restored, as if such window or light had been originally included in such assessment: provided always, that if the commissioners shall be of opinion that any window or light so restored in any dwelling-house shall have been stopped up at the time when the assessment was made, with intent to evade the payment of the said duties, they shall charge the occupier of the said dwelling-house at the rate of double the sum by which the assessment shall be increased by reason of such certificate: provided also, that every such assessment, when amended, shall be liable to be appealed against in such manner as if the same had been originally so made."

Sect. 22. "That no assessment shall be subject to appeal, nor any abatement of the duties allowed in any year, by reason of any windows or lights being stopped up, unless it shall be proved to the satisfaction of the commissioners for executing this act, that the same windows or lights were respectively stopped up according to the directions of this act, previous to the commencement of the year on which the said assessment shall or ought to have been made."

Sect. 23. "That every assessment to be made of the said duties in pursuance of this act in England, Wales, and Berwick-upon-Tweed, shall be in force for one whole year, commencing from the 5th day of April in the year in which the same shall be made, and ending on the 5th day of April then next following, and the said several duties shall be paid by quarterly instalments, on the days hereinafter mentioned (that is to say), on the 20th day of June for the quarter commencing from the 5th day of April, and ending on the 5th day of July, the 20th day of September for the quarter commencing from the 5th day of July, and ending on the 10th day of October, and the 20th day of December for the quarter commencing from the 10th day of October, and ending on the 5th day of January, and the 20th day of March for the quarter commencing on the 5th day of January, and ending on the 5th day of April in every year, the first payment thereof to be made on the 20th day of June, 1804; and it shall be lawful for the respective commissioners, or any two or more of them, and they are hereby required, as soon as the assessment shall be made, to issue out and deliver to the respective collectors their warrants for the speedy and effectual levying and collecting the said duties, as the same shall become payable, by quarterly instalments as aforesaid; and such part thereof as cannot be so levied and collected may be recoverable as a debt upon record to the king's majesty, his heirs and successors, with full costs of suit and all charges attending the same; and, when so recovered, the said duties shall be paid to the receiver-general in aid of the parish or place answerable for the same."

Sect. 24. "That every assessment to be made of the said duties in pursuance of this act in Scotland, shall be in force for one whole year, and shall commence from the 24th day of May in the year in which the same shall be made, and end on the 24th day of May then next following; and the said last-mentioned duties shall be paid by half-yearly instalments on the days hereinafter mentioned (that is to say), on or before the 29th day of September and the 25th day of March in every year; the first payment thereof to be made on or before the 29th day of September, 1804; and such payments shall be made by the person charged with the said duty, his or her executors or administrators, by themselves or others in their behoof, to the collector of the said duties personally, or at his office, and the said collector shall, on payment thereof, give acquittances (without taking any thing for such acquittance, the stamp duty for the same excepted), unto the several persons who shall pay the same, which shall be a full discharge to the persons paying the same, against his majesty, his heirs and successors; and every person so charged shall, in case of his or her not paying the same upon the day upon which he or she is hereby appointed to pay the same, or within three days thereafter, forfeit treble the value and extent of the duty with which he or she stands charged, to be recovered as the said duties may be recovered by the said last mentioned act of the present session of Parliament."

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Assessments in Scotland shall be for a year, from May 24, payable half-yearly.

Penalty on non-payment, treble value. (See 43 Geo. 3, c. 150.)

Sect. 25. "That the assessors for the time being shall, within twenty-one days after the respective times appointed for the commencement of the said duties, and for every subsequent year, within twenty-one days after the commencement of the respective duties for each year, cause general notices to be affixed on the doors of the church or chapel, or market-house, or cross (if any) of the city, town, parish, or place for which such assessor shall act; and if such place shall not have a church or chapel, or market-house, or cross, then on the nearest church or chapel door of any adjoining parish, requiring all persons residing in the said city, town, parish, or place, who are by this act required so to do, to make out and deliver to the respective assessors, within fourteen days after the date of such notice, such lists or declarations as are herein required; and such general notice shall, from time to time, when the same shall be affixed, be deemed sufficient notice of the time within which such returns shall be required to be made in each year, to all persons residing or being in such city, town, parish or place, and the affixing the same in manner before directed shall be deemed good service of such notice to all persons within the limits of such city, town, parish, or place; and the said respective assessors shall cause the said notices from time to time to be replaced (if necessary) during the said space of fourteen days previous to the time required for the delivery of such lists or declarations as aforesaid; and every person wilfully tearing, defacing, or obliterating any such notice so affixed, shall forfeit for every such offence a sum not exceeding 20*l.* nor less than 5*l.*"

Assessors shall yearly cause general notices to be affixed on the church door, &c. requiring lists to be delivered (see ss. 27, 28); which shall be deemed sufficient notice.

Penalty for defacing such notices, 20*l.* to 5*l.*

Sect. 26. "That besides such general notices as aforesaid, the said respective assessors shall, within the respective periods before mentioned, in every year, give or leave at every dwelling-house, where any person liable or supposed to be liable to the duties hereby made payable, as set forth in the several schedules to this act annexed, marked C, D, E, F, G, H, I, and K, or any of them, shall usually reside within the limits of the places for which such assessors act, one notice to and for the occupier thereof; and where such dwelling-house shall be let in different apartments, and occupied distinctly by different persons or families, a like notice to and for the occupier of each distinct story or apartment, provided any person liable or supposed to be liable as aforesaid shall reside there, and also a like notice to and for every person so liable, then residing in such dwelling-house as a lodger or inmate, within the knowledge of such assessor or assessors, requiring such persons respectively to prepare and produce, within twenty-one days next ensuing the date of such notice, a list or lists, or declaration or declarations in writing, in the forms and in the manner hereinafter required."

But assessors shall also leave notices at dwelling-houses, for persons liable to duties in schedules C—K, to return lists. (See ss. 27, 28.)

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Persons liable to any of the duties in schedules C—K, in the course of the year ending on the days appointed for commencement of the duties (see s. 1), shall return lists of particulars thereof, &c. to the assessors, within six weeks after such days.

Sect. 27. "That every person who shall have retained or employed any male servant or servants, or other male person or persons herein described or mentioned, or kept any carriage, horse, mule, or dog, or shall have used or exercised the trade or business of a horse-dealer or coach-maker, or seller of carriages by auction or on commission as aforesaid, or shall have used or worn hair-powder or any armorial bearing or ensign, in the course of the year ending on the day next before the respective days appointed for the commencement of the said duties in the year 1804, shall, before the end of six weeks thereafter, whether any previous notice for that purpose shall have been delivered or not, cause to be prepared true and particular lists in writing, signed by such person or on his or her behalf, which shall contain the parish or place, and the parishes or places where such person shall then or usually reside, and one of such lists shall also contain the greatest number of male servants, retained or employed by such persons, and also the names of the several other male persons by them retained or employed at any one time in the course of the year ending as aforesaid, in any of the capacities mentioned in the schedules hereunto annexed, and the names of such servants and other persons, and the several capacities in which they shall serve; and whenever the person required to return such list shall be liable to the duty on servants kept by any male person never having been married, he shall be required to denote the same, by adding to the signature of his name the letter B.; another of the said lists shall contain the greatest number of carriages mentioned or described in the schedules annexed to this act, kept by such person at any one time within the like period, describing therein, by its usual name and description, the particular kind and denomination of such carriage by which the body or bodies of such carriages are usually called or known, and distinguishing the number of such carriages with four wheels from the number of such carriages with less than four wheels, and also the number of bodies of such carriages which shall successively have been used on the same carriage or number of wheels, and also the number of horses by which such carriages with less than four wheels shall have been drawn at any time within the like period, and also the number of such carriages liable as taxed carts; another of the said lists shall contain the greatest number of horses, mares, or geldings, kept and used by such person for the purpose of riding, or drawing any carriage chargeable with the duty made payable by this act, at any one time within the like period; another of such lists shall contain the greatest number of all other horses, mares, or geldings, and mules, kept by such person at any one time within the like period, which shall on any occasion have been used as herein mentioned; another of such lists shall contain the greatest number of dogs kept by such person within the like period, distinguishing therein any greyhound, hound, pointer, setting-dog, spaniel, lurcher, or terrier, from any other dog, where one dog only shall be kept by such person; another of such lists, if the same be returned by any person who shall have used or exercised the trade or business of a horse-dealer, shall contain the place or places where the same shall have been so used or exercised within the like period, and also the greatest number of horses, mares, or geldings, kept by him or her at any one time within the like period, distinguishing whether the same shall have been kept for sale, or been used by him or her, or let to hire, and the number of each so kept or used, and for what purpose, so that the duties hereby made payable shall be duly charged; and another of such lists, if the same shall be returned by any coachmaker or maker of carriages before mentioned, or by any seller of such carriages by auction or on commission, as herein is mentioned, shall contain the place or places where such trade or business shall be carried on; and another of such lists, if the same be returned by any person who shall have worn hair-powder, or used any armorial bearing or ensign, within the like period, shall distinguish therein the particular duty and duties, and the amount thereof, to which such person is liable, with a declaration whether he or she is a housekeeper or one of the family, or a lodger, inmate, apprentice, or servant, abiding in the house of any person; and every list returned by any

occupier of a dwelling-house or distinct apartment as aforesaid, shall contain the names and places of abode of every person resident in such dwelling-house, distinguishing whether such person so residing be of the family, or be lodgers or inmates or apprentices or servants; and in case such householder or occupier having unmarried daughters, or any servant or servants, shall be desirous of being personally charged to the duties hereby imposed on persons wearing hair-powder as aforesaid, instead of his or her unmarried daughters, or his or her servant or servants, as herein is allowed, then also such list shall contain the number and names of such unmarried daughters and servants respectively to be so charged to him or her, and the capacities in which such servant or servants shall serve; and every such person shall deliver or cause such lists to be delivered to the assessor or assessors of the said duties for the district, parish, or place, where such person shall reside or be, or leave or cause the same to be left at his or their dwelling-house or houses, or one of them, at or before the expiration of the time appointed by this act for the delivery thereof; and every person who shall have retained, employed, kept, or used any servants, or other male persons, carriages, horses, mules, or dogs, shall be charged for the greatest number of servants, carriages, horses, mules, and dogs retained or employed, kept or used by him or her at any one time within the year ending as aforesaid; and every person who shall have used or exercised the trade or business of a horse-dealer, or the trade or business of a coachmaker, or maker of carriages, or of a seller of carriages by auction or on commission, or shall have worn or used hair-powder, or any armorial bearings, within the year ending as aforesaid, shall be assessed and charged by the respective assessors for the year commencing from that day, which assessments shall be made at the rate specified in the said schedules marked C, D, E, F, G, H, I, and K, and according to the lists, which shall or ought to have been returned as aforesaid, subject to such powers of surcharge as by this act are directed and given; and the assessments on the returns so to be made shall be deemed an assessment for the year commencing from the respective days in the year 1804, appointed for the commencement of the said duties."

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Such persons shall be charged according to such lists for the year commencing from those days.

Sect. 28. "That every person liable to the said duties shall, in every year subsequent to the respective days appointed for the commencement of the said duties, within six weeks thereafter, and he and she is hereby required yearly, whether any previous notice for that purpose shall have been delivered or not, to cause to be prepared and delivered to the respective assessors before mentioned for the time being, true and particular lists of the greatest number of such servants or other male persons retained or employed, and of carriages, horses, mules, and dogs kept by such person, or of his or her having used or exercised the trade or business of a horse-dealer, or coachmaker, or maker of carriages as aforesaid, or of a seller of carriages by auction or on commission, as aforesaid; or of having worn or used hair-powder, or any armorial bearings or ensigns, at any one time in the course of the preceding year ending on the then preceding 5th day of April; which lists shall be prepared in the form before prescribed, and according to the directions of this act in respect thereof; and such person shall renew the same in the same manner in every year so long as such person shall be liable to the said duties or any of them, as aforesaid; and every person shall annually be chargeable in respect of the greatest number of servants or other male persons, carriages, horses, mares, or geldings, mules, and dogs, retained, employed, kept, or used by him or her at any one time within such preceding year, and also in respect of his, her, or their having used or exercised the trade or business of a horse-dealer, or coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, as aforesaid, or of having worn or used hair-powder, or armorial bearings or ensigns, within the same period; and the assessment made thereupon shall be deemed an assessment made for the year in which such returns shall or ought to have been made."

Lists shall be returned annually in like manner.

Assessment shall be for the year in which returns are made.

Sect. 29. "That every person who, from and after the respective days appointed for the commencement of the said duties, shall begin to retain or employ any such male servant, or other male person herein described, or

Every person beginning to keep a male servant, or

3. Of the Assessed Taxes themselves.

43 Geo. 3, c. 161.

carriage, or to carry on the business of a horse-dealer, coach-maker, &c., or to wear hair-powder, or armorial bearings, and every person ceasing to keep such servant, &c., or to carry on such business, &c., shall give notice thereof within twenty days (a).

keep or use any such carriage (such servant or carriage not being in the place or stead of any former one liable to the like duty), or to use or exercise the said trade of a horse-dealer, or coachmaker, or maker of such carriages, or a seller thereof by auction or on commission as aforesaid, or to wear or use hair-powder, or any armorial bearings or ensigns, or who shall cease to retain or employ any male servant, or to keep or use any carriage liable to the duty, without retaining or employing any other male servant, or other male person herein described, or keeping or using any other carriage liable to the like duty, in the place or stead of such servant or carriage, or who shall cease to use or exercise the said trade or business of a horse-dealer, or of a coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, or to wear or use any hair-powder, or any armorial bearings or ensigns, shall, within twenty days after he or she shall so begin or cease to retain or employ such servant, or other male person, or to keep or use such carriage, or to use or exercise such trade or trades, or to wear or use any hair-powder, or any armorial bearings or ensigns, cause notice thereof in writing to be given to the assessor or assessors for the district, parish, or place where he or she shall reside, and a list of the number of such servants and carriages, and the increase or decrease made thereby, and the particular rate or duty to which he or she is liable as having used or exercised such trade or trades, or worn or used hair-powder, or armorial bearings or ensigns, describing in such notice every such servant or other male person by his proper name, and the several capacities in which such servants or other male persons respectively shall be, or shall have been retained or employed; and also describing every such carriage by its usual name and description, distinguishing the number of bodies used with and of wheels belonging to each such carriage, and the number of horses used in drawing any such carriage with less than four wheels, and also distinguishing each such carriage liable as a taxed cart, and the name or names and place of abode of the person or persons who ought to return such lists."

How assessors shall make assessment on persons refusing or neglecting to deliver lists.

Sect. 30. "That if any person shall neglect or refuse to make out, sign, and deliver such lists as are herein directed, or any of them, within the respective times herein mentioned, then the assessor or assessors shall, from the best information he or they can obtain, make an assessment upon such person so refusing or neglecting for or in respect of every servant, carriage, horse, mule, or dog, retained or kept by him or her as aforesaid, and of every person having used or exercised such trade or trades as aforesaid, or worn or used hair-powder, or armorial bearings or ensigns, as aforesaid, according to the rates specified in the said schedules, and shall include the same in the certificate of the assessment to be delivered to the commissioners as herein directed; and every such assessment so made upon any such neglect or refusal shall be final and conclusive upon the person thereby charged, who shall not be at liberty to appeal therefrom, unless such person shall prove that he or she was not at his or her dwelling-house or place of abode at the time of delivery of such notice, nor between that day and the time limited for delivering such list as aforesaid to the assessor, or unless such person shall allege and prove such other excuse for not having delivered his or her list, as the commissioners for executing this act shall in their judgment think reasonable and sufficient."

Appeal against such assessments.

Assessors not bound by lists delivered.

Sect. 31. "That such assessors shall not be bound by such lists as shall be delivered to them respectively in pursuance of this act, but shall be at liberty, if they shall find upon due examination that any person, description, article, matter, or thing, which ought to be contained in such lists, is or are omitted, or untruly stated therein, to make a true assessment upon every such person, according to the intent and meaning of this act, of the real charge which ought to be imposed on such person."

Housekeepers

Sect. 32. "That every occupier as aforesaid, in whose dwelling-house or

apartment any person liable to the duties by this act made payable, or any 3. *Of the As-*
 or either of them, shall reside as a lodger or inmate, shall, for the purpose of *essed Taxes*
 making accurate returns, cause the contents of the notice left at his or her *themselves.*
 dwelling-house to be read over and made known to each and every such
 lodger or inmate not having received a like notice, requiring them respect- 43 Geo. 3, c. 161.
 ively to declare to him or her, and attest the return to be made, whether he shall require de-
 or she be liable to the said duties, or either of them, or be exempted there- clarations or re-
 from, or whether he or she have another place of ordinary residence where turns from
 he or she intends to be charged; and every person so resident, being there- lodgers, &c.
 unto required as aforesaid, shall be obliged to make such declaration; and
 if any such lodger or inmate shall wilfully refuse to give an account as
 required by this act, or to attest the return to be made thereof, every such
 person shall forfeit and pay the sum of 50*l.*; or if any occupier as aforesaid, Penalty on neglect
 by whom any such declaration ought to be required, or to whom any such and refusal in
 declaration shall be made, shall neglect to require the same, or to insert the either party, 50*l.*
 same in the return to be made to the assessor or assessors, in pursuance of
 this act, every such person shall also forfeit the sum of 50*l.*"

Sect. 33. "That the said assessors shall, upon the receipt of any list con- Assessors shall
 taining the name of any lodger or inmate returned liable to any of the said leave notices for
 duties as chargeable within the parish or place where the said assessors act, lodgers, &c.
 give or leave the like notice for every such person to prepare and produce,
 within the like period, a list or declaration signed as aforesaid; and every
 such person shall, within twenty-one days after notice left at such dwelling-
 house, make out a list or declaration, as the case shall require, and sign the
 same in the manner before directed, under the penalty herein mentioned for
 neglecting to deliver any such list or declaration *."

Sect. 34. "That every person who shall have divers places of residence * See s. 37.
 within any part of Great Britain, or shall keep any servants or other male Persons having
 persons herein described, carriages, horses, mules, or dogs, at divers places divers places of
 within Great Britain, and every person being an inmate or lodger at the time residence, &c.
 of such notices being given as aforesaid, and having an ordinary residence shall deliver lists
 at some other place or places, whereat or at one of which places such person at each.
 ought to be charged, shall be obliged to deliver all such lists as aforesaid at
 each and every of such places, and to insert in every such list the name or
 description of each person, article, matter, and thing, for which such person
 is liable to any of the said duties, or which ought to be returned according
 to the directions of this act; and shall also, in every such list, specify the
 particular persons and number of each description of articles aforesaid
 respectively intended to be paid for within the limits of the district, parish,
 or place, where such list shall be delivered, and shall also, at the same time,
 make his or her declaration, to be inserted in such list, and signed by him
 or her, specifying the particular counties or county, and parishes or parish,
 wherein each such other place of his or her residence is situate, and also the
 particular counties or county, and parishes or parish, wherein the said duties,
 or any part of the said duties, are or is intended to be paid."

Sect. 35. "That if any person, having delivered his or her declaration to Penalty on persons
 pay the said duties in any other parish, ward, or place, than in the parish, declaring to pay
 ward, or place, where such list shall be delivered, shall not return a list in duties in any
 such other parish, ward, or place, according to such declaration, in order to place, and not
 his or her being regularly brought into charge by the assessors for such other delivering list
 parish, ward, or place, every such person so offending shall forfeit and pay there, 50*l.*
 the sum of 50*l.*"

Sect. 36. "That every person claiming to be within any of the exemptions Claims of exemp-
 allowed by this act, in or by any of the schedules hereunto annexed, marked tion (except with
 C, D, E, F, G, H, I, or K, except of the royal family, in such cases where respect to the
 they are specially exempted, shall make a due return thereof, and declare royal family)
 the cause or causes of such exemptions, such declaration to be specified in or shall be returned
 annexed to the lists to be by him or her delivered; and if any dispute shall to the assessors,
 arise whether the person be entitled to such exemption, the proof thereof and proved on
 shall lie on the person claiming such exemption, who, on any charge or sur- oath, &c.
 charge before such commissioners, or on any suit or prosecution, shall be per-

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Penalty for neglect, omission, or falsity in delivering lists or declarations, 50*l.* and duty.

Penalty for omissions shall not be sued for where the party is surcharged.

In case of persons employing servants, &c., where they have no residence, or coming to reside in districts after time for returning lists, or having no fixed place of residence, notice shall be given and lists returned, and declaration of assessment, &c. elsewhere.

In default, assessments may be made upon them.

mitted to allege the same on oath or affirmation, or to prove the same by lawful evidence to be produced and shown by him or her; provided that no such exemption shall be allowed, unless the same, and the cause thereof, shall have been duly returned to the assessor or assessors aforesaid."

Sect. 37. "That if any person, liable to the said duties, or any of them, in respect whereof a list or declaration ought to be delivered, or coming within any of the exemptions contained in this act, shall neglect to deliver a list or lists, or a declaration or declarations, according to the directions of this act, in every parish or place where the same ought to be delivered, or shall omit any person, or any description, article, matter, or thing, which ought to be contained therein, according to this act, or shall make an untrue return of any particular therein, he or she so offending shall forfeit and pay the sum of 50*l.* over and above any duty chargeable as aforesaid."

Sect. 38. "That the penalty by this act imposed, as last aforesaid, for omitting to insert in the lists or declarations delivered, as hereby required, any person, or any description, article, matter, or thing, which ought to have been contained therein, shall not be sued or prosecuted for in any case where the person or persons against whom the suit or prosecution shall be brought, shall, before the commencement thereof, have been surcharged for the same cause, and on the same account, and assessed in double the duty hereby made payable, or any proportion thereof, according to the directions of this act."

Sect. 39. "And whereas divers persons may retain or employ servants, or keep carriages, horses, mules, or dogs, at places where they themselves have no houses or places of residence, and other persons liable to the duties made payable by this act, or some of them, may come into or to reside in places after the time appointed by this act for returning the lists before mentioned, not having been charged therein, or may have no fixed place of residence:" be it further enacted, "that in every such case it shall be lawful for the assessor or assessors, surveyor or surveyors, inspector or inspectors, within and for such districts or places respectively, at any time or times, and they are hereby strictly required and enjoined in every case within their knowledge respectively, to deliver or leave such notices as are hereinbefore directed to be given, at the house or houses where such persons shall reside or be, or where such servants, or other male persons before described, carriages, horses, mules, or dogs, shall be kept; and all and every such persons, and also all and every person or persons having the care, superintendence, or management of such servants, or other male persons before described, carriages, horses, mules, or dogs, shall deliver or cause to be delivered such list or lists as aforesaid, signed by them respectively, conformably to the directions hereinbefore contained, to the assessors, surveyors, or inspectors, within and for the respective districts or limits where any such servants, carriages, horses, mules, or dogs, are or shall be kept, or where such persons shall then reside or be, within twenty-one days after the delivery of such notices, and shall also deliver to them respectively a declaration where they, or the persons to whom such servants, or other male persons before described, carriages, horses, mules, or dogs, do belong, have been assessed for that year to the duties hereby made payable, together with the usual place or places of abode of themselves, or of the persons to whom the servants, or other male persons before described, carriages, horses, mules, and dogs, under their care, superintendence, and management, do belong, and the names of such persons; or in case no such assessment, or no sufficient assessment, shall then have been made, then where they or the persons to whom such servants, or other male persons before described, carriages, horses, and mules, do belong, shall have delivered their lists, in order to their being so assessed under the like penalties as are herein imposed on persons chargeable with the said duties for not delivering lists in the parishes and places where they respectively reside; and every person who shall appear by such return, or otherwise, not to have been assessed in the full sum of which he or she ought to be assessed, or not to have returned the lists hereby required for the purpose of being so assessed in some other parish or place in Great Britain, or who shall not make any such return, may be chargeable to all the said duties by this act made pay-

able, and for which returns ought to be made, either in the parish or place 3. *Of the Assessed Taxes themselves.*
 where such last-mentioned notice shall have been delivered, in like manner
 as if such person actually resided in such parish or place, or in the parish or
 place where such persons shall have their ordinary residence; and if any
 person on whom such notice shall have been served, shall remove from such
 parish or place, without having delivered such list or declaration, he or she
 shall forfeit the sum of 50*l*."

43 Geo. 3, c. 161.

Penalty for removing without delivering list, &c. 50*l*.

Sect. 40. "That every person letting to hire any horses in such manner as not to be chargeable to the stamp-office duty made payable by law on horses let to hire, or letting any servants or carriages, shall annually return a list of the greatest number of such servants, carriages, and horses kept by him or her at any time in the prior year, in like manner, and within and for the like period, and under the like penalties, as returns of other servants, carriages, and horses, subject to the duties by this act made payable, are directed to be made; and every such list shall specify the name and place of abode of the person or persons for whose use or in whose service such servants, carriages, and horses shall have been or shall be employed, and the number of each let to hire to every such person, and the period of each letting, according to the number of servants, carriages, and horses which shall or ought to be contained in such list, and the said duties by this act made payable shall be charged on the person or persons letting or hiring such servants, carriages, and horses, as the case may require."

Persons letting to hire horses so that the stamp-office duty shall not be chargeable, or letting servants or carriages, shall deliver lists of the number and the names of the hirers.

Sect. 41. "That where any person shall hire or shall have hired any horses, in such manner that the stamp-office duty payable by law on horses let to hire, shall not be chargeable on such letting, or shall hire or shall have hired any servants or carriages, then such hirer shall annually return a list of the greatest number of such servants, carriages, and horses, to the assessor or assessors of the parish or place or parishes or places where such hirer shall reside or be at the time such return ought to be made, as the case may require, in like manner, and within and for the like period, and under the like penalties, as returns of other servants, carriages, and horses, exempted from the said annual duties by this act, are directed to be made; and every such list shall specify the name and place of abode of the person or persons by whom such servants, carriages, and horses shall have been or shall be let to hire, and the period of each letting."

Hirers of such horses, servants, and carriages, shall return lists thereof.

Sect. 42. "That where any horses shall have been, or shall be let to hire, in such manner as not to render the person or persons letting the same liable to the said stamp-office duty, or where any servants or carriages shall be let to hire, and the hirer of such servants, horses, or carriages shall not make such return as by this act is required, then and in such case the duties chargeable in respect thereof for one year, shall and may be charged upon and paid by the person or persons hiring such servants, carriages, and horses, by the surcharge of the assessor, surveyor, or inspector, over and above the penalty incurred for any neglect or omission as aforesaid, unless the person or persons letting the same shall have been brought into charge for the same servants, carriages, and horses respectively; and if any dispute shall arise whether the person or persons so letting to hire any servants, carriages, or horses, shall have been brought into charge for the same, the proof thereof shall be on the hirer of such servants, carriages, and horses so surcharged, who, on such surcharge, shall be permitted to allege the same on oath, or solemn affirmation, or to prove the same by lawful evidence to be produced and shown by him or her: provided that the party hiring the same shall not be exempted, unless the exemption and the cause thereof shall have been duly returned to the assessor or assessors as aforesaid; and in every case where the said duties shall be chargeable on the hirer or hirers of such servants, carriages, and horses, making default as aforesaid, the progressive duties made payable thereon, by schedules C. No. 1, D. No. 1, and E. No. 1, respectively shall be charged."

Surveyors may surcharge in default of returns the hirers of servants, &c., and the progressive duties for one year shall be charged on such hirers, unless on proof that the parties letting have been charged.

Sect. 43. "That every inhabitant householder of any lodging-house, in which there shall be any lodger residing therein liable to any of the duties hereby made payable, of which lists are hereby required to be delivered, Lodging-house keepers, stable-keepers, persons

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letting horses, servants, or carriages to hire, horse-dealers, coachmakers, and dealers in carriages, shall keep books containing entries of persons and articles chargeable with the duties, &c.

Books may be inspected and copies shall be delivered periodically to assessors.

Penalty for neglect or omission, 50*l*.

Forms for entering such accounts may be prepared by the Tax Office, and issued to persons applying.

shall from time to time enter in a book an account of every person so liable; and every livery-stable keeper, or other person receiving any horses or carriages to stand at livery, or delivered to him or her to be kept, shall also from time to time enter in a book an account of every carriage or horse so standing at livery, or delivered to be kept by him or her; and every person letting any horses to hire in such manner as not to be chargeable to any duty payable by law on horses let to hire, or letting any servants or carriages, shall also from time to time enter in a book an account of such horses, servants, and carriages, and the number thereof, and the periods of each letting, and also the names of such servants, and the descriptions of such carriages; and every horse-dealer shall also enter in a book an account of the number of horses kept by him, whether for sale or use, distinguishing the number kept for sale, and the number kept for use, and to what duty the same are respectively liable; and every such coachmaker or maker of such carriages shall also enter in a book the number and kinds of carriages by him built and constructed for sale, distinguishing the number of wheels of each, and the number sold, and the names and places of abode of the persons to whom sold, and the days on which each carriage was delivered or sent out of his or her shop or warehouse; and every such seller of carriages by auction or on commission as aforesaid, shall also enter in a book the number and kinds of carriages sold by him or her, distinguishing the number of wheels of each, and the days on which such carriages were sold respectively; all which books shall, at all reasonable times in the day-time, be opened to the inspection of the assessor, surveyor, or inspector of the place where such person shall reside as aforesaid; and every person hereby required to enter and keep such account respectively, shall, if in England, Wales, and Berwick-upon-Tweed, within twenty days after the 5th day of July and the 10th day of October, 1804, and within twenty days after the 5th day of January and the 5th day of April, the 5th day of July, and the 10th day of October in every subsequent year, and if in Scotland, within twenty days after the 29th day of September, and the 25th day of March yearly, deliver a true copy in writing of all and every entry made in such book or books respectively within the preceding quarter of the year, containing the several matters and things before directed, to the assessor or assessors of the parish or place where he or she shall reside, for the use of the surveyor or inspector of the said duties, or to such surveyor or inspector, and, when required so to do by such surveyor or inspector, every such person, or his or her chief servant, workman, or manager, shall make oath (or, being a Quaker, an affirmation) of the truth of such account, according to the best of his knowledge and belief; and every such copy of the account to be delivered by such person shall, to the best of his or her knowledge and belief, express the christian and surname of every person required to be entered in such account, and the place or places of his, her, or their usual residence; and if any such person shall neglect to keep such account, or to deliver such copy thereof, or shall wilfully omit any description which ought to be contained therein, he or she so offending shall forfeit and pay the sum of 50*l*."

Sect. 44. "That the commissioners for the affairs of taxes shall cause to be prepared and issued to every person applying for the same, and leaving his or her name and place of abode in writing at the office for taxes, or with any surveyor of the said duties for the district where the person making such application shall reside, proper forms for entering the accounts hereinbefore required to be made of lodgers, and of the carriages and horses standing at livery, or delivered to stable-keepers or other persons to be kept, and of the servants kept by them, and also of the servants, carriages, and horses let to hire as aforesaid, and of the horses kept by horse-dealers, and of carriages built and constructed and sold by coachmakers or makers of such carriages, and of such carriages sold by auction or on commission as aforesaid; and every such account shall at the end of each year (all such entries as aforesaid being required to be first duly made) be signed by the party with his own proper name, in his or her usual manner of writing or signing the same, and returned to the assessor or assessors of the parish or place where the party

shall reside, for the use of the surveyor or inspector of the districts as aforesaid, or to such surveyor or inspector as the said commissioners for the affairs of taxes shall direct, at the times hereinbefore required; and in default of such application, the party shall be obliged to provide proper forms for the said purpose, and shall cause all such entries to be duly made therein, and the same to be signed and delivered to the assessor, or surveyor, or inspector, in like manner as is before directed for the accounts issued from the office for taxes; and if any person shall neglect to deliver such accounts duly filled up and signed within the times limited as aforesaid for making such returns, every such person shall forfeit and pay the sum of 50*l*."

Sect. 45. "That the assessor, surveyor, or inspector, to whom such account as aforesaid shall be delivered by any coachmaker or maker of carriages, or by any seller of carriages as aforesaid, shall forthwith return to the respective commissioners a certificate of the number of such carriages, of the several descriptions herein mentioned, by such persons respectively constructed or sold within the period of such account, and the amount of duty chargeable on them respectively, and the said commissioners shall cause an assessment to be made on the amount contained in each certificate, and added to the assessment of the said other duties charged in the same parish or place, and shall cause the same to be inserted in the collector's duplicate, who shall demand, receive, and collect the same, at the same times and under the same warrant as the other duties are collected by or paid to such collector."

Sect. 46. "That from and after the respective days appointed for the commencement of the said duties, every gate-keeper of or upon any turnpike road, by whom any certificate shall be filed of any horses let to hire, in such manner as not to subject the hirer thereof to any stamp-office duty payable by the laws then in force, and every collector or farmer of the said stamp-office duty, to whom such certificate shall be delivered by such gate-keeper, according to the laws then in force, shall at all seasonable times permit the surveyors or inspectors of the said duties by this act made payable, to inspect such certificates gratis, and to take copies thereof, or of such parts thereof, or extracts from the same, as the said surveyor shall think necessary for securing the payment of the said duties; and if any person shall wilfully refuse to permit such inspection, or such copy to be taken, he or she shall forfeit the sum of 100*l*."

Sect. 47. "That the name and place of abode of every person licensed to let post-horses by the commissioners for managing the duties on stamped vellum, parchment, and paper, under the laws in force, shall annually be transmitted to the office for the affairs of taxes by the said commissioners, whenever the said duties shall not be let to farm, or otherwise by the farmers and collectors of the said duties."

Sect. 48. "That every person who hath or shall have divers places in Great Britain, whereat he or she shall use or exercise the trade or business of a horse-dealer, and is or may be desirous of paying the said duties at one of such places, such places not being within different limits, as set forth in the said schedule marked H, subjecting him or her to different duties, shall be obliged to deliver a declaration at each of such places, declaring therein the particular county and parish or place where he or she intends or ought to be charged for the said duty, to enable the assessor or assessors at such place to charge the same accordingly; on pain that every person offending in any of the particulars before mentioned shall be chargeable at either place, and for neglect in making such return shall forfeit and pay the sum of 20*l*.; provided that every person exercising the said trade in London, Westminster, the liberties of the same, the parishes of St. Mary-le-bone and St. Pancras in the county of Middlesex, the weekly bills of mortality, or the borough of Southwark in the county of Surrey, shall be charged and pay the duties in respect thereof in such of the said places where such business shall be carried on within the last-mentioned limits, and not elsewhere."

Sect. 49. "That it shall be lawful for the commissioners for the affairs of taxes to cause such list or lists of names and places of abode of persons having

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Or the party shall provide proper forms.

Penalty 50*l*.

Assessor shall on such accounts certify duty on carriages to commissioners, who shall make assessment accordingly.

Gate-keepers and farmers of post-horse duties shall permit surveyors to inspect their certificates.

Penalty, 100*l*.

Lists of persons licensed to let post-horses shall be annually transmitted to Tax Office.

Persons trading as horse-dealers at divers places shall deliver returns at each place, &c. Penalty 20*l*.

Horse-dealers in London, &c., shall be charged there.

Tax Office may cause lists to be

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made of persons having made returns, or being charged with duties; copies whereof shall be evidence.

Lists of persons charged may be published.

Penalty for defacing such lists, 5*l*.

Penalty on persons removing without payment of duties, &c. 20*l*.

Penalty on house-keepers for omitting to return lodgers having worn hair-powder, &c. (see s. 32), shall be recovered, though the lodger make his return, &c.

Persons fraudulently escaping taxation, may be charged treble the duties, at any time within one year.

Parents and

made returns in pursuance of this act, or of persons charged to the duties by this act made payable, to be made out for the purpose of being inspected by any person or persons who shall make application to inspect the same, as to them shall seem necessary for the better execution of this act, and to authorize copies of such lists, or any part thereof, to be made out, in such manner, by the several inspectors, surveyors, and officers employed under them, and at such times as to such commissioners shall seem fit; all which lists and copies signed by any inspector, surveyor, or other officer aforesaid, authorized by the said commissioners, shall be admitted as evidence in all courts, and before all persons acting in the execution of this act; and for which copies the fee of 1*s*., and no more, may be taken for the return of each person contained therein."

Sect. 50. "That it shall be lawful for the commissioners for the affairs of taxes, under the direction of the lords commissioners of his majesty's treasury, from time to time, to publish or cause to be published, in the several counties, ridings, divisions, cities, towns, parishes, and places respectively, lists containing the names of any persons charged to the duties made payable by this act, and to cause the same to be published in such manner as they shall direct; and if any person shall wilfully tear, deface, or remove any list of any such names, or any part of such lists that shall be affixed by order of such commissioners as aforesaid upon any church or chapel door, or market cross, he or she shall forfeit for every such offence the sum of 5*l*."

Sect. 51. "That if any person rated and assessed to any of the said duties made payable by this act shall remove out of the limits of the collectors of the said duties who shall be charged to collect the same, without first paying or discharging, or causing to be paid or discharged, all the duties charged upon him or her, and which shall then be due and payable, and without leaving within such limits sufficient goods and chattels whereon the said duties in arrear may be raised and levied, every such person shall for every such offence forfeit and pay over and above the said duties, so left unpaid as aforesaid, the sum of 20*l*."

Sect. 52. "That every occupier of any dwelling-house, or distinct apartment as aforesaid, who shall not return a list of persons residing with him or her as aforesaid, or shall omit any person who ought to have been included therein, and who to his or her knowledge shall have worn hair-powder, or used any armorial bearing or ensign within the period for which the return should be made, shall be liable to prosecution for the penalty hereby inflicted, and be deemed guilty thereupon, whether it shall appear that the person so omitted, or not returned, hath or hath not for himself or herself made a return at the same or any other place, or hath or hath not been prosecuted for any offence against this act, or is or is not amenable to justice therefore; and the conviction of any person for not returning or omitting any such person as aforesaid shall not be deemed to exempt the person so omitted or not returned from paying the duty by this act imposed, or from prosecution or punishment for any offence against this act; provided that any person residing in any dwelling-house at the time of making such return, as a lodger or inmate, who shall elsewhere have his or her place of ordinary residence, shall be returned as ordinarily residing in such other place."

Sect. 53. "That if any person who ought to be charged by virtue of this act, shall, by changing his or her place of residence, or by any other fraud or covin, escape from the taxation, and not be charged, and the same be proved before the commissioners acting in the execution of this act, or any two or more of them, where such person dwelleth or resideth at any time within one year next after such charge ought to have been made, every person that shall so escape from the taxation and payment shall be charged (upon proof thereof) at treble the value of so much as he or she should or ought to have been charged at by this act, the said treble value to be charged in the assessment on such person, and on non-payment thereof to be levied on the goods, lands, and hereditaments of such persons."

Sect. 54. "That where any person or persons chargeable with the duties

hereby made payable as aforesaid shall be under the age of twenty-one years, 2. *Of the Assessed Taxes themselves.* or where any person so chargeable shall die, in every such case the parents and guardians of such infants respectively, upon default of payment by such infants, and the executors and administrators of the persons so dying, shall be and are hereby made liable to and charged with the payments which the said infants ought to have made, and the persons so dying were chargeable with; and if such parents or guardians, or such executors or administrators, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person or persons making default of payment of the duties hereby made payable; and all parents and guardians, making payment as aforesaid, shall be allowed all and every sum and sums paid for such infants in his, her, or their accounts; and all executors and administrators shall be allowed to deduct all such payments out of the assets and effects of the person so dying.”

43 Geo. 3, c. 161.

guardians shall pay duties charged upon infants and executors, &c. Assessments on persons deceased.

Sect. 55. “That where, in the assessment of any parish, ward, or place, by virtue of the rules contained in schedules A, or B, the said duties shall be charged on the landlord or landlords, or owners of any dwelling-houses let in different apartments, stories, tenements, lodgings, lands, or landings, and not on the respective occupiers thereof, and the landlords or owners shall not reside in such parish or place, or shall not have sufficient goods or chattels in such parish or place whereon the duties so assessed shall or may be levied, and such landlords or owners shall not have paid the said duties, then and in such case it shall be lawful for the collector or collectors to demand the same of and from the tenant or tenants, occupier or occupiers thereof, or any of them, and on non-payment thereof shall and may levy the said duties on the goods and chattels of such tenants and occupiers respectively, by distress and sale as aforesaid, as if the said duties were charged on such tenants and occupiers (a), and such tenants and occupiers are hereby required and authorized to pay such sum or sums of money as shall be so assessed, and to deduct out of the rent of such apartments, stories, tenements, lodgings, lands, or landings, such payments as the landlords and owners have been charged with; and the said landlords and owners, both mediate and immediate, according to their respective interests, are hereby required to allow such payments upon receipt of the residue of the rent, and every such tenant and occupier shall be acquitted and discharged of so much money as the said assessment or assessments shall amount unto, as if the same had actually been paid unto such landlords or owners.”

Duties charged on landlords under schedule A & B, may be levied on occupier, who may deduct the amount out of rent.

Sect. 56. “That in England, Wales, or Berwick-upon-Tweed, the ward, parish, or place in which any assessment shall be made of the said duties shall be answerable for the amount of the duties which shall be charged in such ward, parish, or place, and for the said duties being duly demanded of the respective persons charged therewith, within ten days after the same are payable by virtue of this act by the collector or collectors of such ward, parish, or place; and also for such collector or collectors, his, her, or their executors or administrators, duly paying the sums received by such collector or collectors, to the receiver-general of the said duties, according to this and the said first-recited act; and every arrear of the said duties arising from the default as aforesaid, or by the failure of any collector for which any ward, parish, or place as aforesaid, shall be answerable, shall be re-assessed within or upon such ward, parish, or place, as soon after such default shall be discovered as conveniently can be done, and shall respectively be charged on the amount of the assessment which shall be made for the same duties in the year commencing from the first day of April preceding the time of making such re-assessment, by duly apportioning the amount of such arrear amongst the several persons assessed in that year to the same duties respec-

Parishes in England in which assessments are made, shall be answerable for the duties, and for payment by collectors under this act and 43 Geo. 3, c. 99.

Arrears shall be re-assessed (b).

(a) See observations in *The Earl of Shaftesbury*, 3 D. & R. 34, 1 B & C. 669; *Juson v. Dixon*, 1 M. & Sel. 601; ante, p. 941; As to re-assessment, see 20 Geo. II. c. 3, s. 34; 25 Geo. III. c. 47, s. 25; 3 Anst. 920; 1 New R. 287; 7 Price, 594; *Wightw.* 1; 46 Geo. III. c. 65, ss. 189, 190; ante, p. 949.

(b) See ante, p. 944, note (a).

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Deficiencies of duties in Scotland arising from failure or default of collectors under this act and 43 Geo. 3, c. 150, shall be re-assessed.

Persons shall not be assessed to poor's rate, &c., for duties under this act.

Payment of duties shall not confer a settlement.

Assessors, inspectors, and surveyors, allowed to examine houses twice a year, to ascertain the rent, and number and dimensions of windows.

Constables shall assist when required.

Proof of the dimensions of windows shall lie on occupier.

Distinct tenements may be examined in like manner.

Assessors shall bring in certifi-

tively on which such arrear shall have accrued, according to each person's assessment thereof, as nearly as the case will admit, and by the like rules, methods, and directions by which the original assessment was made of the same duties, to be raised and levied in such manner as any assessment may be by this act raised and levied."

Sect. 57. "That in case the duties assessed in Scotland shall not be paid to the receiver-general by reason of any failure of the collector, either in the performance of his duty, or in not paying over the monies received by him according to the directions of this and the said last-recited act, and any deficiency shall remain after diligence used against such collector, or his surety or sureties, or, in case of death, against his executors or administrators, then and in such case the commissioners acting in the execution of this act for the shire, stewartry, city, or borough in Scotland, where such failure has happened, shall, and they are hereby authorized and required to cause the deficient sum to be re-assessed, as soon after such deficient sum has been ascertained as can be done, upon those persons subjected to the payment of the like duties in the year when the re-assessment shall be made, by duly apportioning the amount of such deficiency amongst them according to each person's assessment as near as the case will admit, and by like rules and modes by which the original assessments were made of the duties assessed in that year, which sum so re-assessed shall be levied and collected in such manner as the said duties may be raised and levied in Scotland."

Sect. 58. "That no person or persons shall be charged or assessed to the poor's rate or contribution for the poor, or to the highway duty or commutation of statute labour, for or in respect of any duties made payable by this act, but that such owners and occupiers shall continue to be rateable to the said rates, contributions, and duties, in such manner as they might have been rated and assessed to the same respectively, before the passing of this act."

Sect. 59. "That the payment of any of the duties made payable by this act, by any person or persons, in any parish or place, shall not entitle the person or persons so paying such duties to a settlement in such parish or place."

Sect. 60. "That the several assessors, inspectors, and surveyors, so as aforesaid appointed or to be appointed, and every of them, shall have full power, at seasonable times, taking to his or their assistance, in all cases when the same shall be necessary, a constable, headborough, tithingman, or other officer of the respective parishes or places within that part of Great Britain aforesaid, who are hereby required to assist such officers accordingly, to view and examine each dwelling-house, in order to ascertain the number of windows or lights therein, and the dimensions thereof, and the annual rent at which the same dwelling-house ought to be charged; and for so doing shall have liberty to pass through any house or houses, and to go into any court, yard, back-side, or premises thereunto belonging, and externally to view and inspect the windows or lights in any such house or houses, and the premises occupied therewith, and to measure such windows or lights externally, that cannot be conveniently seen, numbered, or measured, without passing through such house or houses; and shall also have liberty to make like view, examination, and inspection, twice in the year during the continuance of this act; and if any dispute shall arise touching the dimensions of any window or light, the proof thereof shall lie upon the occupier or occupiers, who shall cause the same to be duly admeasured at his and their proper costs, and verified before two or more of the said commissioners, on the oath or affirmation of the person admeasuring the same."

Sect. 61. "That where any dwelling-house shall be divided into distinct tenements, requiring each tenement to be separately assessed, it shall be lawful for the said assessors, surveyors, and inspectors, and every of them, to take an account of the number of windows in each distinct tenement, and for that purpose shall have liberty to enter into the same, and to view, number, and measure the windows therein, as well internally as externally."

Sect. 62. "That the respective assessors acting in the execution of this act shall bring in their certificates of assessments, in writing under their

hands, within the limited time by the said recited act of the present session 3. *Of the Assessed Taxes themselves.*
 of parliament, to be verified as therein directed, of every dwelling-house, inhabited or not inhabited, within the limits of those places for which they are to act, and of the number of windows or lights in each house, and the full and just yearly rent which every such dwelling-house, with the offices and premises hereby charged, is really worth, estimated according to this act, together with the names and surnames of the several occupiers or inhabitants of each dwelling-house, and also the greatest number of male servants, or other male persons herein described, carriages, horses, mules, and dogs, which shall have been retained, kept, or used, within the then preceding year, for which the persons retaining, keeping, or using the same, ought to be assessed to any of the duties made payable by this act for the current year, within the limits of those places for which they act, and the names and surnames of the several persons who shall have retained, kept, or used the same; and also the names and surnames of all persons within such limits liable to the duties, in respect of their trade or business of a horse-dealer, or of their trade or business of a coachmaker, or maker of carriages, or seller of carriages by auction, or on commission, or in respect of hair-powder, or any armorial bearings or ensigns, worn or used by them, and of the several sums of money they respectively ought to pay by virtue of this act, in each case respectively, without concealment or favour; and also the names and surnames of those who have claimed exemptions from the said duties, or any of them, and the causes of such exemption, under the penalty contained in the said recited act, observing therein, as to the time of bringing in such certificates, the regulations of the said recited act."

43 Geo. 3, c. 161.

states of assessments for all the duties, with the names of persons claiming exemptions, &c., according to the regulations of the recited act, 43 Geo. 3, c. 99. (and see c. 150).

Sect. 63. "That the surveyors or inspectors appointed or to be appointed, as herein mentioned, shall be and they are hereby empowered to inspect and examine all and every the returns of lists or declarations made by any person or persons chargeable to the said duties, or any of them, according to the directions of this act, and also all and every the assessments of the said duties, or any of them, made for any parish or place, as well before as after the commissioners shall have signed and allowed the said assessments, and, before such allowance, to correct and amend such assessments, if he or they shall see fit; and every person in whose custody any such lists shall be, shall and is hereby required, upon the request of any such surveyor or inspector, as aforesaid, to deliver the same into his custody for the purposes of this act, taking his receipt for the same; and every person in whose custody any such assessment shall be, shall and is hereby required, upon the request of such surveyor or inspector, as aforesaid, to produce the same; and such surveyor or inspector is hereby authorized to take charge of the same until he shall have taken such copies of or extracts from the same, as may be necessary for his and their better information; and if any such surveyor or inspector shall, after any such list or lists, and assessment or assessments, shall be so respectively made out, signed, and allowed, as aforesaid, find or discover, upon his survey or examination, or otherwise, that any person who ought to be charged with the said duties, or any of them, shall have been omitted to be charged therewith, or shall have been under-rated, or that any person liable to the said duties, or any of them, in respect of which such lists or declarations, as aforesaid, ought to have been delivered, hath not made any return, as by this act is required, or hath omitted any person, or any description, or any article, matter, or thing, which ought to have been returned, so that he or she shall not have been charged to the amount which ought to be paid by him or her, or that any exemption shall have been claimed which is not allowed by this act; then, and in every such case, the said surveyor or inspector shall certify the same in writing under his hand, together with an account of every default and omission, with the name or description of the person or thing not returned or omitted, to the best of his knowledge and belief, and the full amount of the duty which ought to be paid by way of surcharge to any two or more of the said commissioners for putting in execution this act, in order to have such default, omission, or under-rate, rectified in the said assessment; and such commissioners are, upon the delivery of

Inspectors and surveyors may inspect, examine, and copy returns and assessments, and may amend the latter before allowed by commissioners,

and after allowance may certify omissions, &c., by way of surcharge;

which surcharge (on oath being made of notice to the party) commissioners shall allow.

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Notice to parties.

Surcharges shall be made as under 43 Geo. 3, c. 99, & 150, in the full amount of duties in schedules A, B, and in double the other duties. (See s. 71.)

Assessments or surcharges shall not be impeached on account of mistakes in the names or descriptions.

Surcharge may be avoided by making a return on oath (see s. 56), to satisfaction of surveyor, to be signified by his certificate;

or on objection, of surveyor, assessment shall be made in double duty, subject to appeal

any such certificate, and upon oath being first made that such notice as hereinafter directed was given to or left in writing at the dwelling-house, or other place of abode, of the person so surcharged, required to sign and allow the said surcharges, and to cause the said assessments to be rectified, and the said duties to be levied accordingly; and the said inspectors and surveyors shall give or cause to be given, to every person so surcharged, or leave, or cause to be left at his or her last or usual place of abode in the district where such surcharge was made, notice in writing of such surcharge, and of the amount for which he or she shall have been charged by virtue of such certificate; which surcharges the said inspectors and surveyors are hereby empowered to make from time to time, and at such times as is directed by the said recited acts respectively of the present session of parliament, and such surcharges shall be made in the full amount of the duty which ought to be charged by virtue of such certificate, in respect of the duties contained in schedules (A.) and (B.), and in double the amount of the duty which ought to be charged by virtue of such certificate, in respect of all or any of the duties contained in the other schedules to this act annexed."

Sect. 64. "That no assessment or surcharge made or to be made by any assessor or assessors, surveyor or surveyors, inspector or inspectors, by virtue of this act, shall be impeached or affected by reason of any mistake or variance in the christian or surname, or either of them, of any person liable to any of the duties made payable by this act, or of any servant or other male person herein described, or in the description of their employments, nor by reason of any mistake in the description of any carriage, horse, mule, or dog, as required by this act, or the amount of the duty surcharged, whether such mistake or variance shall appear in the notice and certificate to be delivered or made in such case, or in either of them; but that all such assessments and surcharges shall be valid and effectual to all intents and purposes, notwithstanding any such mistake or variance, provided the notice of surcharge be delivered to or left at the place of abode of the person intended to be so surcharged, according to the directions of this act, and the person or persons intended to be described shall be liable to the said duties, or shall be a servant or servants of or otherwise employed by the person or persons so surcharged, or the carriage, horse, mule, or dog, intended to be described, shall belong to, or the duty intended to be described, shall be chargeable on such person or persons."

Sect. 65. "That it shall be lawful for any person to whom such notice of surcharge shall be given, as aforesaid, on occasion of his or her having neglected to make any return, as required by this act, at any time previous to the time appointed for hearing appeals next after the delivery of such notice, to make out and deliver to the surveyor or inspector, who shall have delivered the notice of surcharge, a true, perfect, and complete list or lists, or declaration or declarations, in the forms directed by this act, and as the case may require, so that he or she may, from such last-mentioned lists or declarations so delivered, be charged to the said duties the full sum at which he or she ought to be charged by virtue of this act; provided that, to every such list or declaration, there shall be annexed an affidavit in writing, to the effect hereinafter mentioned; and, if the said surveyor or inspector shall be satisfied with such list or declaration and affidavit, then he shall certify such return and affidavit to two or more of the said commissioners, with the amount of the duty to be charged, who shall thereupon cause the assessment to be made according to such certificate, and the same rate of duty as set forth in the schedules to this act annexed to be charged on the person making such return, without further trouble or delay; but if, upon examination of such list or declaration, or such affidavit, the said surveyor or inspector shall see just cause to object thereto, he shall thereupon certify such return and affidavit, together with the cause of his objection, to two or more of the said commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate, in double the amount of the duty at which such person shall be surcharged; and from which charge no abatement shall be made on any pretence, unless on appeal, as hereinafter is

directed; of which certificate notice shall be given by the surveyor to the person to be charged thereby."

Sect. 66. "That every such affidavit shall allege and declare in substance or to the effect as follows (that is to say): that the deponent was not at his or her dwelling-house, or other place of abode, at the time appointed for the fixing or delivery of general or other notice, for making a return as required by this act, nor between that day and the time limited for making such return to the assessor, and that he or she had not any such notice; or, that he or she was disabled by sickness from making such return; or, that the non-delivery of such return was occasioned by the following unavoidable mistake or accident, without any intention to defraud the revenue: *videlicet* [here set forth the cause of such default]; and that the return annexed to this affidavit is a full, perfect, and complete return of all matters and things required of the said deponent by this act, to the best of his or her judgment; which affidavit may be taken before any one or more of the commissioners acting for the place where the surcharge shall be made, or where the party surcharged shall reside, and shall be signed by the party making the same."

Sect. 67. "That it shall be lawful for any person to whom such notice of surcharge shall be given, on occasion of his or her having omitted in the return made any person or description, or any article, matter, or thing, which ought to have been contained therein, or of having claimed any exemption not allowed by this act, to amend such return, by delivering to the surveyor or inspector, as aforesaid, a new return, according to the directions before given, to which an affidavit shall be annexed, to the effect hereinafter mentioned; and the said surveyor or inspector shall be at liberty to certify his satisfaction therewith, or his objection thereto, in the manner hereinbefore directed, according to which certificate, the party surcharged shall be assessed in the single duty to the full amount at which he or she shall be chargeable, or in the double duty on the amount of the duty so surcharged, as the case may require, subject to the like power of appeal from such charge in the double duty, and to the like proceedings, in all other respects, as are before given and directed."

Sect. 68. "That every such last-mentioned affidavit shall allege and declare the grounds and cause of each omission, or claim of exemption, as well to matter of law as fact, whether the deponent shall persist in such omission or claim, or not, and also that the return annexed to this affidavit is a full, perfect, and complete return of all matters and things required of the said deponent by this act, to the best of his or her judgment and belief, and that such omission or claim was not made with intention to defraud the revenue, which said last-mentioned affidavit shall be made and signed in the manner before directed."

Sect. 69. "That an appeal may be made from any assessment or surcharge as aforesaid, and heard and determined under the regulations of the said recited acts respectively, and that such appeal may be made in the like cases as are mentioned in the said recited acts respectively, and also in the case hereinafter mentioned."

Sect. 70. "That if any person or persons shall think himself, herself, or themselves, respectively overcharged or over-rated by any certificate of any inspector or surveyor as aforesaid, or by any assessment to be made by virtue or in pursuance of such certificate, it shall be lawful for him, her, or them respectively, to appeal to the said commissioners in such manner as they are authorized to appeal from any original assessment or surcharge by the regulations of the said recited acts respectively; and upon the hearing of any such appeal, or the appeal against any such original assessment or surcharge, the appellant shall, in all cases, where a list or declaration shall or ought to have been delivered by the said appellant to the assessor, produce before the said commissioners a true, perfect, and complete list or lists, and declaration or declarations, as the case may require, and verify the same on his or her oath or affirmation."

Sect. 71. "That upon every surcharge confirmed by the said commissioners on appeal, according to the regulations of the said recited acts respec-

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Form of affidavit to be annexed to return (see s. 65).

On omissions in returns, surcharge may be avoided by new return on oath, (and proceedings as under, s. 65.)

Form of affidavit in aid of defective returns.

Appeals shall be heard and determined as under 43 Geo. 3, c. 99, and 150 (and see s. 70).

Persons aggrieved by certificate of assessors may appeal.

Lists on oath required in all cases of appeal.

Assessment shall be made in double

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43 Geo. 3, c. 161.

duty where surcharge is confirmed on appeal, &c. ;

but commissioners may remit, not exceeding one moiety.

Inspector, &c. shall receive overplus above the rates of duty.

Penalty on inspector to surveyor making false or vexatious surcharge, &c. 50*l*.

Not to defeat any action against surveyor under 43 Geo. 3, c. 90, s. 23, or c. 150, s. 19.

Court may mitigate the penalty.

Assessors, &c. or appellants, may demand a case for the opinion of a judge (a).

tively, and also upon every surcharge allowed by the said commissioners upon the certificate of the surveyor or inspector, as directed by this act (except in cases where sufficient returns, upon affidavit, have been supplied as aforesaid), the assessments shall be made in double the rates of duty prescribed in the schedules annexed to this act, on the amount of the duty so surcharged, which sum shall be added to the assessment, and inserted in the duplicates of the collectors, and collected and levied therewith, and paid to the receiver-general : provided always, that upon every such appeal, if the said commissioners shall be of opinion that there was any just cause or controversy on the part of the appellant on the subject-matter of appeal, and that the alleged default, neglect, omission, or claim, was not wilfully made, and with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, although they shall have confirmed or allowed the surcharge, at the same time to remit and strike off any part of the double duty, not exceeding one moiety of the charge above the rates of duty prescribed by the said schedules ; and the assessor, surveyor, or inspector, so making such surcharge, shall be, and is hereby entitled to, and shall have and receive for his own use, from the receiver-general to whom the duties shall be paid, the overplus of the sum so charged above the said rates of duty, as prescribed in the said schedules, which overplus the commissioners for executing this act, who shall have confirmed such surcharge, or any two or more of them, shall, at the same meeting, certify, under their hands, to the commissioners for the affairs of taxes, and the certificate of the said commissioners for the affairs of taxes shall be a warrant to the said receiver-general to pay the same."

Sect. 72. "That if any inspector or surveyor shall wilfully make any false and vexatious surcharge, or wilfully deliver or cause to be delivered to the commissioners for executing this act any false and vexatious certificate of charge, every such inspector or surveyor shall forfeit to the party aggrieved any sum not exceeding 50*l*., to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, for offences committed in England, and in the court of great sessions for offences committed in Wales, and in the courts of session or Exchequer for offences committed in Scotland, with full costs of suit : provided always, that nothing hereinbefore contained, nor any suit by the party aggrieved, in pursuance of this act, shall be construed to affect, impeach, or defeat any action or information brought or to be brought against any surveyor or inspector, in pursuance of the said recited acts respectively, for any corrupt, vexatious, or illegal practices in the execution of his office ; and it shall be lawful for the judge before whom such inspector or surveyor shall have been convicted of such offence, by indorsement on the postea, or for the court before whom such person shall be convicted, to mitigate the penalty at his or their discretion."

Sect. 73. "That if any such assessor or assessors, surveyor or surveyors, inspector or inspectors, or the persons appealing either against the original assessment or surcharge, or against the certificate of the inspector or surveyor as aforesaid, or against the assessment to be made thereupon, shall apprehend the determination made by the said commissioners to be contrary to the true intent and meaning of this act, and shall then declare himself or herself dissatisfied with such determination, it shall be lawful to and for such assessor or assessors, surveyor or surveyors, inspector or inspectors, or appellant respectively, to require the said commissioners to state specially, and to sign the case upon which the question arose, together with the determination thereupon, which case the said commissioners, or the major part of them then present, are hereby required to state, and sign accordingly, and to cause the same to be delivered to the party making such request as aforesaid, to be by

(a) The 45 Geo. III. c. 71, s. 3, provides, that if the opinion of a judge shall be against the assessment, the tax-office may order receiver-general to repay money

overpaid on assessment. By the 4 Geo. IV. c. 11, copies of cases determined by the judges are to be annually laid before parliament. See the act, *post*, 1024. *

him or her transmitted, if in England, Wales, or Berwick-upon-Tweed, to one of the justices of the Court of King's Bench or Common Pleas, or to one of the barons of the Court of Exchequer for the time being at Westminster, and, if in Scotland, to one of the lords of the court of session, or the barons of the Court of Exchequer in Scotland; and every such judge is hereby required, with all convenient speed, to return an answer to such case so transmitted, with his opinion thereon subscribed thereto, according to which opinion, so certified, the assessment which shall have been the cause of such appeal shall be altered or confirmed: provided always, that where the opinion of such judge shall be in support of any surcharge, the assessment thereupon shall be made in the double duty, or shall be mitigated to such sum as shall have been determined by the commissioners at the time of the appeal: provided also, that notwithstanding any such case so transmitted to any of the said judges, the instalment on the assessment as determined and allowed by the said commissioners, which shall become due precedent to the opinion being certified by any such judge upon such case, shall be collected and levied as if no such case had been transmitted."

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If surcharge confirmed, assessment shall be in the double duty, &c. as on appeal.

Instalments due previous to judge's opinion shall be levied.

40s. costs on appellant having demanded a case, if surcharge confirmed.

Sect. 74. "That if, according to the opinion of any of the said judges to whom any case shall, at the request of the appellant or appellants, be transmitted in pursuance of any of the directions contained in this act, the charge or surcharge upon which the question contained in such case shall have arisen shall be confirmed and established, the person or persons so charged or surcharged shall, for the costs and charges attending the same, pay to the use of his majesty, his heirs and successors, the sum of 40s., in addition to the assessment or surcharge so confirmed and established as aforesaid, and which costs shall be added to such assessment, and levied and collected therewith, and as part of the duties so assessed."

Sect. 75. "That whenever any case or cases to be transmitted to any of the said judges for his or their opinion thereon, in the manner directed by this act, shall have been obtained by any inspector or inspectors, surveyor or surveyors, or assessor or assessors, by reason of any surcharge or surcharges, or any certificate not being allowed by the commissioners for executing this act, and the same shall not be returned within the time hereby limited for delivering the duplicates to the receivers-general, and the office of the king's remembrancer, whereby the passing of the accounts of the receivers-general may be impeded, it shall be lawful for the commissioners, and they are hereby required, to cause to be made out the duplicates of the several assessments required to be delivered to the respective receivers-general, and into the office of the king's remembrancer, exclusive of the sums so depending, to the end that there may be no delay in paying into the receipt of the Exchequer the sums assessed and fully charged; and that, upon the return of such opinion, whenever the same shall happen, the said commissioners shall cause separate assessments to be made out, including therein the names of the party or parties in the case or cases so transmitted, and the amount of the sums wherewith the party or parties ought to be charged, according to such opinions so returned; and the sums so assessed to be levied in like form and manner as any assessments may be levied, and to be paid to the respective receivers-general; and shall also cause true supplemental duplicates of all such separate assessments to be made out as soon as conveniently may be done, and delivered into the respective receivers-general, and also transmitted into the office of the king's remembrancer, for which supplemental duplicates the proper officers shall give acquittances *gratis*, so as every of them may be duly charged to answer the whole of their respective collections and receipts."

When cases obtained by inspectors, &c. shall not be returned within the time for delivering duplicates to receivers-general, &c. (See 43 Geo. 3, c. 99, s. 46, c. 150, s. 41.)

Commissioners shall make separate assessments and duplicates.

Sect. 76. "And, to the end that no person may pay the same duties for the same articles in more parishes or districts than one for the same year; be it further enacted, that if any person, having been assessed under this act in one parish or district to the duties made payable by this act, or any of them, shall be again assessed in another parish or district for the same cause and on the same account, in such case the commissioners for this act within such latter parish or district, or the majority of the said commissioners pre-

Commissioners may grant relief in cases of double assessment.

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Penalty on altering assessment, 50*l*.

Treasury may appoint salaries to officers, and pay incidental expenses.

Allowances to the receivers-general, collectors, and clerks to commissions (a).

sent, on any application for the purpose, may and are hereby required to alter any assessment of such person so assessed twice, on proof given before them that such person hath before been assessed for the same cause, and on the same account, in another place, and in what place specifically, and hath paid or is liable to pay the duties for the same upon such assessment, which proof shall be made by the oath or affirmation of the party, or some credible witness, that the several assessments are for the same cause and on the same account, and by the production of either a copy or certificate of the first assessment, signed by two or more commissioners of the district for which such first assessment shall have been made, to be verified on oath or affirmation as aforesaid, which copy or certificate the clerk of the said commissioners shall deliver *gratis* to the party requiring the same; or, in default of such copy or certificate, then the proof thereof shall be made by other evidence on oath or affirmation as aforesaid, to the satisfaction of the commissioners present, or the majority of them; and if any person shall, by any fraudulent contrivance whatever, procure any assessment to be altered, with intent to defraud his majesty, his heirs or successors, of the said duties, or any part thereof, every such person shall for every such offence forfeit the sum of 50*l*."

Sect. 77. "That no letters patent granted by his majesty, or any of his royal progenitors, or to be granted by his majesty, to any person or persons, cities, boroughs, or towns corporate, within this realm, of any manner of liberties, privileges, or exemptions from subsidies, tolls, taxes, assessments, or aids, shall be construed or taken to exempt any person or persons, city, borough, or town corporate, or any of the inhabitants of the same, from the burden and charges of any of the said duties; and all *non obstantes* in such letters patent made or to be made in bar of this act are hereby declared to be void and of none effect; any such letters patent, grants, or charters, or any clause of *non obstante*, or other matter or thing therein contained, or any law or statute to the contrary notwithstanding."

Sect. 78. "That out of the monies from time to time arisen or to arise of or from the said duties made payable by this act, it shall be lawful to and for the said commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, to settle and appoint such salaries and allowances for the service, pains, and labour of the surveyors, inspectors, and other officers to be employed in the execution of this act, and otherwise in relation thereto, and also to discharge such incident charges and expenses as shall necessarily attend the execution of this act, as the said commissioners of the treasury, or any three or more of them, or the high treasurer for the time being, shall think fit and reasonable in that behalf."

Sect. 79. "That every receiver-general shall have an allowance of two-pence in the pound for all the monies which shall be by him paid into the receipt of the Exchequer; and that every collector shall have three-pence in the pound for what money he shall pay to the receiver-general, his deputy or deputies, within the time limited by the said recited act: and that for the careful writing and transcribing the said assessments, warrants, estreats, and duplicates, in due time, and for the due, speedy, and effectually executing all matters and things directed to be performed under the said commissioners, the clerk of the respective commissioners, who shall perform the same within the respective times limited by this act, shall, by warrant under the hands of two or more of the commissioners, have and receive from the respective receivers-general, their deputy or deputies, three-halfpence in the pound, of all such monies as he or they shall have received by virtue of such warrants or certificates, who is and are hereby appointed and allowed to pay the same accordingly, provided this act be carried into execution in due time, and in an effectual manner, for the district in which he shall be appointed the clerk, and all warrants or estreats be made out, and the duplicates delivered to the said receiver-general, and into the office of king's

(a) Repealed by the 48 Geo. III. c. 55, s. 7.

remembrancer as aforesaid, within the times limited by this act, * and not otherwise; and no other person, except the person appointed to be his assistant as aforesaid, shall, under any pretence whatever, be entitled to, or receive or take any part of the reward hereby given to such clerk; the amount whereof shall be apportioned and settled by the respective commissioners; nor shall any such clerk or assistant, under any pretence whatever, demand, take, or receive any fee, gratuity, or perquisite, for any matter or thing to be done by him or them, by virtue and under the authority of this act, from any person or persons other than the receiver-general, his deputy or deputies, in manner aforesaid."

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43 Geo. 3, c. 161.

* See s. 75.

Clerk shall not take any fee, &c.

Sect. 80. "That all pecuniary penalties and forfeitures imposed by this act shall and may be sued for, recovered, and applied in such manner and form as is directed by the said recited acts respectively in regard to the pecuniary penalties and forfeitures thereby imposed."

Penalties recoverable as under in England, 43 Geo. 3, c. 90, & c. 150, in Scotland.

Sect. 81. "That the collectors shall pay over the whole of the sums by them received by virtue of this act, in manner and upon the days of payment following: that is to say, in England, Wales, and Berwick-upon-Tweed, the same shall be paid quarterly unto the respective receivers-general, or their respective deputies, within twenty days after the respective days appointed for the payment thereof, at such places as shall be appointed by such receivers-general, and the said receivers-general shall cause the same to be paid into the receipt of his majesty's Exchequer at Westminster, before the end of the quarter in which the same shall be received, according to the provisions of the said first-recited act; and in Scotland the same shall be paid half-yearly to the receiver-general at Edinburgh, *videlicet*, on or before the 25th day of December, for the first half-year's instalment of the said duties, and on or before the 24th day of June for the last half-year's instalment of the said duties in every year; and the said receiver-general shall, within forty days after the said respective days, remit and pay the same into the said receipt, according to the provisions of the said last-recited act."

Time of payment of duties by collectors to the receivers-general, and by them into Exchequer.

Sect. 82. "That all monies arising from the said duties (the necessary charges of raising and accounting for the same excepted) shall from time to time be paid into the receipt of his majesty's Exchequer at Westminster, distinctly and apart from all other branches of the public revenues; and that there shall be provided and kept in the office of the auditor of the said receipt, a book or books, in which all the monies arising from the said duties, and paid into the said receipt as aforesaid, shall be entered separate and apart from all other monies paid and payable to his majesty, his heirs and successors, upon any account whatever; but nevertheless without entering the different proportions thereof, in separate accounts, as directed by any act or acts hereby repealed; and the said monies so paid into the said receipt shall be carried to and made part of the consolidated fund of Great Britain."

Duties shall be carried to British consolidated fund.

Sect. 83. "And whereas, by divers of the said acts hereby repealed, it is provided, that the new or additional duties thereby granted should, during the space of ten years, then next ensuing, be kept in the office of the auditor of the said receipt of Exchequer, in a book or books, together with such other duties as were respectively granted for the purpose of making permanent additions to the public revenue, and of defraying any charges occasioned by certain loans made and stocks erected by authority of Parliament, and separate and apart from other monies paid or payable to his majesty, his heirs or successors, upon any account whatever; and whereas it is expedient that the whole of the duties contained in each schedule should be entered in one account; be it therefore enacted, that from and after the respective period appointed for the commencement of this act, in the respective parts of Great Britain herein mentioned, * the monies arising from the duties contained in the same schedule shall be paid into the said receipt in one sum, and the account thereof shall be there kept in one sum; and the monies arising from each separate schedule, marked A, B, C, D, E, F, G, H, I, and K, shall be paid into the said receipt, separate and distinct from each other; and separate accounts shall be there kept of the same: provided always, that the commissioners of his majesty's treasury, now or for the time being, or any

Accounts shall be kept of monies arising from the duties contained in each schedule.

* See s. 1.

Accounts of different parts of the duties shall be prepared at the Tax Office, and annually laid be-

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

fore Parliament,
according to 42
Geo. 3, c. 70.

Apportionment of
duties.

See 42 Geo. 3, c.
34, s. 40.

* Query?

Repeal of former
duties, and of such
parts of acts as
relate to those
duties.

three or more of them, or the lord high treasurer for the time being, shall from the respective periods appointed for the commencement of this act, during the remainder of the ten years mentioned in the acts hereby repealed, in respect of the new or additional duties thereby respectively granted, and for the period of ten years from the commencement of this act, in respect of the new duties by this act granted, cause separate and distinct accounts of the different parts of the said duties, and of the amount thereof, to be prepared at the office for taxes, to be annually laid before Parliament, pursuant to the provisions contained in an act passed in the forty-second year of the reign of his present majesty, intituled, 'An Act for directing certain Public Accounts to be laid annually before Parliament, and for discontinuing certain other Forms of Account now in use;' provided always, that a separate account shall be kept and made out of the said new duties; and that to such account there shall be added, in respect of the new duties on windows or lights granted by this act, by the manner of charging the same according to their respective dimensions, such further sums as shall appear to be the increase occasioned thereby, which increase shall be always taken to be the excess over and above the several sums of 327,900*l.*, 515,000*l.*, 36,000*l.*, 36,000*l.*, 51,500*l.*, and 441,496*l.*, directed by the several acts hereby repealed to be entered in separate accounts in the books of the said receipt, and of the further sum of 490,000*l.*, being the computed annual amount of the rates and duties granted by the said act, passed in the forty-third year* of the reign of his present majesty, amounting together to the sum of 100,897,896*l.*; and that the excess of the said rates and duties above the said sums shall be deemed a permanent increase to the public revenue of Great Britain, for the purpose of defraying any increased charge occasioned by any loan made or stock created by authority of any act of Parliament passed in the present session of Parliament."

Sect. 84. "That from and after the 5th day of April, 1804, the several rates and duties contained in any of the acts hereinafter mentioned, in lieu whereof other duties are hereby substituted, and also such parts of the several provisions of the said acts which relate to the duties made payable by this act, or any of them, shall be and are hereby repealed; that is to say,

"20 Geo. II. c. 3, for duties on houses, windows, and lights—20 Geo. II. c. 42, and 21 Geo. II. c. 10, for amending said act—20 Geo. II. c. 3, 26 Geo. II. c. 17 (misrecited as an act of his present majesty), for windows in Scotland—2 Geo. III. c. 8, duties on windows—6 Geo. III. c. 38, repealing former duties on houses, windows, and lights, and granting others—17 Geo. III. c. 39, duty on servants—18 Geo. III. c. 26, duties on inhabited houses—19 Geo. III. c. 59, repealing duties under 18 Geo. III., and granting others, and amending 17 Geo. III. c. 39, as to servants—21 Geo. III. c. 31, for collecting duty on servants—24 Geo. III. st. 2, c. 31, duty on horses—24 Geo. III. st. 2, c. 38, duties on inhabited houses—25 Geo. III. c. 43, repealing duties on servants, and granting others—25 Geo. III. c. 47, transferring duties from excise and stamps to Tax Office—26 Geo. III. c. 79, for explaining 25 Geo. III. c. 47—29 Geo. III. c. 49, horses and carriages—32 Geo. III. c. 2, inhabited houses, repealing 6 Geo. III. c. 38, in part—36 Geo. III. c. 15, new duty on horses—36 Geo. III. c. 16, additional duty on horses—36 Geo. III. c. 117, lights in dairies—36 Geo. III. c. 124, duties on dogs—37 Geo. III. c. 106, additional duty on horses—37 Geo. III. c. 107, additional duties on servants—37 Geo. III. c. 134, further additional duty on horses—38 Geo. III. c. 40, repealing duties on houses, windows, lights, and inhabited houses, and granting others in lieu—38 Geo. III. c. 41, repealing former duties on servants, carriages, horses, mules, and dogs, and granting others—38 Geo. III. c. 80, to amend said c. 41—38 Geo. III. c. 93, taxed carts—41 Geo. III. (U. K.) c. 9, horses, additional duty and exemption—41 Geo. III. (U. K.) c. 40, exemption on horses of clergymen—41 Geo. III. (U. K.) c. 62, exempting Irish members, &c. from duties—41 Geo. III. (U. K.) c. 69, duty on hair-powder and armorial bearings transferred to Tax Office—36 Geo. III. c. 17, duty on horse-dealers—41 Geo. III.

(U. K.) c. 71, duty on horse-dealers transferred to Tax Office—42 Geo. III. c. 34, consolidated duties on windows, lights, and inhabited houses—42 Geo. III. c. 37, consolidated duties on servants, carriages, horses, mules, and dogs—42 Geo. III. c. 100, explaining acts as to horses, servants, and carriages.”

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

“And that all the acts heretofore repealed by any of the said acts before mentioned to be repealed, shall be deemed to be, and construed also to be and continued repealed, according to the respective provisions thereof; save and except in all cases relating to the recovering, collecting, paying, or accounting for any arrears of the several duties hereby repealed, which may become payable on or before the said 5th day of April, 1804, and may after that time remain unpaid, and to the recovering any penalty or forfeiture which shall have been then incurred under and by virtue of the said several acts, or any of them, and the provisions of the said acts relating thereto; save also and except such parts of any of the said acts which relate to any matters or things other than the said duties or the methods of assessing, levying, and collecting the same.”

Except as to arrears and penalties, and such provisions of the said acts as relate to other things.

Sect. 85. “Commissioners and other officers under this act empowered to levy arrears of duties due under any former acts.” [This is expired.]

Sect. 86. “That if any action or suit shall be brought against any person or persons for any thing done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, such action or suit shall be commenced within six calendar months next after the fact committed, and not afterwards; and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and no writ or process shall be sued out for the commencement of such action or suit, until one calendar month next after notice in writing shall have been delivered to or left at the usual place of abode of such person or persons, by the attorney or agent for the intended plaintiff or plaintiffs, in which notice shall be clearly and explicitly contained the cause and causes of action, the name and place or places of abode of the intended plaintiff or plaintiffs, and of his and their attorney or agent, and no evidence shall be given on the trial of such action or suit of any cause or causes of action, than such as is or are contained in such notice; and the intended defendant or defendants to whom such notice shall have been delivered, may at any time before the expiration of such calendar month tender amends to the intended plaintiff or plaintiffs, his or their attorney or agent; and in case such amends are not accepted, may plead such tender in bar to any action or suit to be brought against him or them, grounded on such notice, writ, or process; and the defendant or defendants in every such action or suit may plead the general issue, and also such tender, and any other plea, with leave of the court, in bar of such action or suit; and may give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit, after the defendant or defendants shall have appeared; and if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in any other case to recover costs by law; and every such action or suit which shall be brought against any collector or collectors appointed under this act shall be defended by the commissioners acting for the division or place where such collector shall have been appointed, and the costs and charges attending the same, as also every other action or suit to be brought by or against commissioners or collectors in pursuance of this act, or for anything done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, shall be defrayed by an assessment made on the parish or place for which such collector or collectors shall have been appointed, in a just proportion to the amount of the duties payable under this act, on the respective persons charged to the same in the assessment to be made next after the time when the said costs and charges shall have been incurred.”

Limitation of actions, six months.

One month's notice.

Tender of amends.

General issue.

Treble costs.

Expenses of actions by or against commissioners, &c. shall be defrayed by assessment.

3. *Of the Assessed Taxes themselves.*

43 Geo. 3, c. 161.

Commencement of the act.

(See s. 1.)

Sect. 87. "That this act shall commence and take effect from and after the 5th day of April, 1804, as to all matters and things, except where directions are specially given by this act, in regard to assessments made or to be made by virtue of any act or acts in force at the time of passing this act, at any time after the 5th day of April, 1803, for the present year, which provisions shall severally commence and take effect from the said 5th day of April, 1803."

[Then are printed the several schedules (A) to (K), with the rules and exemptions. But as these were for the most part repealed and altered by subsequent acts, they are not here stated; and the *existing* schedules of *duties*, with the *rules* and exemptions, will be printed distinctly at the end of this division, *post*.]

The subsequent acts.

48 Geo. 3, c. 55.

After the above act, (43 Geo. III. c. 161,) the several statutes enumerated, *ante*, 924, 925, were passed. We will here only notice those which are most important.

The 48 Geo. III. c. 55, repeals the then duties of assessed taxes, and grants new duties in lieu thereof; and repeals the stamp duties on game certificates, and grants new duties in lieu thereof, to be placed under the management of the commissioners for the affairs of taxes.

Sect. 1 enacts, that the duties contained in the schedules to this act, (A) to (K), shall be levied instead of former duties.

Sect. 2 repeals the former duties, and enacts that the new duties shall be levied under the directions of 43 Geo. III. c. 161, *ante*, 992 to 1022.

Sects. 3 and 4 repeal the stamp duties on game licences, and impose duties in schedule (L), in respect of killing game.

Sect. 5 enacts, that the new duties shall be assessed and collected, &c., under the powers of the 43 Geo. III. c. 99, *ante*, 926 to 958; 43 Geo. III. c. 161, *ante*, 992 to 1022; 45 Geo. III. c. 5, *ante*, 959.

Sect. 6 provides, that the commissioners, and other officers appointed for the assessed tax act, shall put in execution this act (48 Geo. III. c. 55), and that the monies levied shall be under the care of the commissioners for the affairs of taxes.

Sect. 7 provided allowances to receivers-general, collectors, and clerks; (but this was repealed by the 3 Geo. IV. c. 88, *ante*, 961.)

Sect. 8 then enacts that the duties shall be carried to the consolidated fund.

Sect. 9 provides that accounts of duties shall be kept, and laid before parliament, &c.

Then follow the schedules, the existing parts of which are at the end of this division, *post*.

48 Geo. 3, c. 141.

See the 48 Geo. III. c. 141, *ante*, p. 971 to p. 981.

50 Geo. 3, c. 104.

The 50 Geo. III. c. 104, altered the duties on servants and carriages, but enacted that the new duties should be assessed under the regulations of former acts, and directed that makers of taxed carts should return their names, and keep accounts of carts sold; directed the makers of such carts to paint *place and owner's name* before delivery, and *subjected persons using carts without particulars painted* to a penalty (a); exempted the duty on windows of a house used solely for the purpose of manufacture; and contained a schedule of duties on gardeners (repealed by 4 Geo. IV. c. 11, s. 1); a schedule of duties payable on taxed carts (repealed by 4 Geo. IV. c. 11, s. 1; 6 Geo. IV. c. 7, s. 1); a schedule of duties on four-wheeled carriages; and a schedule of duties on makers of taxed carts.

52 Geo. 3, c. 93.

The 52 Geo. III. c. 93, granted new and additional duties. The schedules (C) and (D) of that act were repealed by the 4 Geo. IV. c. 11, and 6 Geo. IV. c. 7, s. 1. These will be incorporated in the schedules, *post*.

54 Geo. 3, c. 141.

The 54 Geo. III. c. 141, enacts, that the duties in schedule 53 Geo. III.

(a) Repealed by 4 Geo. IV. c. 11, s. 4.

relating to persons *assisting* in killing of game, shall cease, if assistance be given to another who has obtained a certificate, &c.

The 56 Geo. III. c. 66, reduced the duties on horses used for the purposes therein mentioned, for two years, and repealed the acts granting allowances in respect of children. The sections 1 to 10 are expired. The 11th section repealed the 46 Geo. III. c. 88, and 52 Geo. III. c. 147, as to allowances of duty in respect of children.

The 57 Geo. III. c. 25, explains and amends the 48 Geo. III. c. 55, and enacts, that tenements which have been occupied as dwelling-houses shall not be charged to duties under the recited act, when employed solely for the purposes of trade, or as warehouses, shops, or counting-houses; but that such tenements may be brought into assessment, and persons claiming relief shall give notice to appear, and deliver a declaration as therein mentioned; and sect. 2 provides that if such tenements are used for any other purpose, then commissioners shall assess them accordingly. Sect. 3 is expired. Sect. 4 enacts, that mills, or places of manufacture, &c., not attached to a dwelling-house, shall not be liable to duty, though a servant, licensed to guard the same, abide therein. Sect. 5 exempts dairies in a farm-house, having only one window, from the window-duty. See the act, *post*, Schedule (B.)

The 58 Geo. III. c. 16, relates to duties on horses, and was repealed by 1 & 2 Geo. IV. c. 110, as to reduced duties on husbandry horses: and see the 4 Geo. IV. c. 11, s. 1.

The 58 Geo. III. c. 17, imposes certain different duties on four-wheeled carriages.

3. *Of the Assessed Taxes themselves.*

56 Geo. 3, c. 66.

57 Geo. 3, c. 25.

58 Geo. 3, c. 16.

58 Geo. 3, c. 17.

59 Geo. III. c. 118, intituled, "An Act to give Relief in certain Cases of Assessment of Taxes in Great Britain, and to Persons compounding for their Assessed Taxes in Ireland, from an Annual Assessment for Three Years, from the Sixth Day of January, 1820."

59 Geo. 3, c. 118.

"Whereas it is expedient to give Relief from certain Duties of Assessed Taxes in Great Britain, in the Cases hereinafter mentioned: it is enacted, that no person or persons becoming, or who shall have become bankrupt or insolvent, shall be liable to be assessed to the said duties after the fifth day of April next after the time of such bankruptcy or insolvency, in respect of any article or articles kept and used for the purposes of trade at or before the time of such bankruptcy or insolvency, which article or articles shall have been seized or surrendered, and *bonâ fide* sold under or by virtue of such bankruptcy or insolvency, and not kept or used by such bankrupt or insolvent after the fifth day of April next after such bankruptcy or insolvency: provided that nothing herein contained shall be construed to affect the payment by the assignee or assignees of every such bankrupt or insolvent, and such assignee or assignees shall pay the duties assessed on every such bankrupt or insolvent at the time of such bankruptcy or insolvency up to the fifth day of April next after the same shall have happened, as if this act had not been made."

Persons not liable to assessment after the 5th of April which shall next happen after bankruptcy or insolvency, for articles kept and used for trade, and surrendered, &c.

Proviso for payments made by assignees.

Sect. 2. "That the duties imposed by the several acts for charging assessed taxes in Great Britain for every male person employed by any person in trade as a shopman, or in the capacity of a groom, stable-boy, or helper in the stables, shall cease and determine from and after the passing of this act, upon every assessment made or to be made after the fifth day of April, 1819, in respect of every person being the son of the employer or employers, or one of them, occasionally resident with his parent or parents, and so employed by him, her, or them, during such occasional residence only; and in respect of every male person so employed under the age of fifteen years, and wholly maintained and lodged in the house of his employer or employers, and in respect of any male person so employed, being of the age of fifteen years or upwards, and bound an apprentice to his employer or employers, or assigned to him, her, or them, until such apprentice shall arrive at the age of twenty-one years or upwards, and wholly maintained and lodged in the house of his

Certain exemptions from duties on persons employed as shopmen or as grooms, &c. (a).

(a) But, note, 3 & 4 Wil. IV. c. 39, s. 4, repeals duties on shopmen, &c.

3. *Of the Assessed Taxes themselves.*

59 Geo. 3, c. 118.

Cause of exemption to be returned.

How far houses in trade employing travellers on foot exempt from duty (a).

Assessments for 1817, 1818, and 1819, for any greater number than four travellers, may be reduced; which being certified to commissioners for taxes, they shall order payment of the sum reduced.

Notice by claimant to surveyor.

Under game-keeper not assessed as an additional servant, but assessed at 10s. per annum.

4 Geo. 4, c. 11.

Certain duties on windows in shops and warehouses, and on certain servants, taxed carts, and certain horses, repealed.

employer or employers: provided always, that the cause of every such exemption shall be truly returned and stated in the manner required by the acts in force at the time of passing this act."

Sect. 3. "That from and after the fifth day of April, 1819, the same employer or employers in partnership together, who shall employ more than four male persons in the capacity of or as travellers to travel from place to place on foot, such shall be exempt for every male person so employed above the number of four, any former law to the contrary notwithstanding."

Sect. 4. "That it shall be lawful for the commissioners acting in the execution of the said acts and this act to reduce the amount of any assessments which shall have been made for the years ending the fifth day of April, 1817, the fifth day of April, 1818, and the fifth day of April, 1819, respectively, on the employer or employers of such travellers on foot for any greater number of such travellers than four, according to the provisions of this act, and as if this act had been made prior to the fifth day of April, 1816; and in all cases where assessments so reduced shall have been previously paid by the parties, it shall be lawful for the said commissioners to certify the number of travellers so charged, and the amount which such assessments shall have been diminished, with the cause or causes thereof, to the commissioners for the affairs of taxes; and in that case it shall be lawful for the said commissioners for the affairs of taxes, to order and direct the receiver-general of the county, riding, or division, who shall have received the sums so paid under such assessments, to repay to the party the amount so reduced, which order shall be an authority to such receiver-general to repay the same, and such repayment shall be allowed in his accounts: provided always, that no such assessment shall be reduced, except upon a notice and declaration being delivered by the party making the claim to the surveyor, or the commissioners of the district or place where such assessment is made; and the parties so making any such claim shall appear before the said commissioners to verify the same in the manner required by the said acts in cases of appeal."

Sect. 5. "That any person or persons chiefly retained and employed for the purpose of preserving game, as an under-keeper, under any gamekeeper duly appointed by any lord or lady of the manor, such gamekeeper being an assessed servant, shall not be liable to be assessed as an additional servant, but shall be assessed after the rate of 10s. per annum, and no more, unless such under-keeper be also employed in some other capacity by which he is liable to be assessed as a servant under the provisions of the said recited act of the fifty-third year aforesaid."

The 4 Geo. IV. c. 11, repeals certain of the duties of assessed taxes, reduces other duties, and relieves persons who have compounded for the same.

Sect. 1 enacts, "that, from and after the 5th day of April, 1823, in that part of Great Britain called England, Wales, and the town of Berwick-upon-Tweed; and from and after the 24th day of May, 1823, in that part of Great Britain called Scotland, for and in respect of and upon all assessments to be made for any year, commencing from the respective days and year last aforesaid, so much of the said duties on windows or lights in shops or warehouses, being parts of dwelling-houses chargeable by the said first-mentioned act, in respect of any number not exceeding three such windows or lights in any shop or warehouse, in the front or fronts, and on the ground or basement story of every dwelling-house occupied by any person or persons in trade, who shall expose to sale or sell any goods, wares, or merchandizes, in any such shop or warehouse; and also the whole of the said duties on gardeners, and on servants in husbandry or trade, and on taxed carts, and on horses, mares, geldings, or mules, hereinbefore respectively and particularly enumerated and described, and all assessments thereon for and in respect of any year commencing from and after the respective days aforesaid, shall severally cease and determine" (b).

(a) By 3 & 4 Wil. IV. c. 39, s. 4, 10d., and 2s., extended to horses under duties on travellers to cease. thirteen hands.

(b) The repeal of the duties of 3s., 2s.

Sect. 2. "That, from and after the said 5th day of May, 1823, in that part of Great Britain called England, Wales, and the town of Berwick-upon-Tweed, and from and after the 24th day of May, 1823, in that part of Great Britain called Scotland, on all assessments to be made for any year commencing from the respective days last aforesaid, *one moiety* and equal half part of each and every of the duties on windows or lights set forth in the said schedule marked (A.) of the said act, passed in the forty-eighth year of the reign of his said late majesty; and also one moiety and equal half part of each and every of the several duties on male servants and male persons, respectively set forth in the respective schedules marked (C.), No. 1, No. 3, and No. 4, of the said acts, passed in the forty-eighth and fifty-second years of the reign of his said late majesty; and also one moiety and equal half part of each and every of the duties on carriages with four wheels, and of each and every of the duties on carriages with two wheels, respectively set forth in the respective schedules marked (D.) No. 1, No. 2, No. 3, and No. 4, of the said acts, passed in the forty-eighth and fifty-second years aforesaid; and also of the duties on carriages granted by Schedule (D.), No. 2, of the act passed in the fiftieth year of his said late majesty's reign, and also by another act passed in the fifty-eighth year of his said late majesty's reign, intituled, 'An Act for charging certain Duties on Four-Wheel Carriages, constructed and drawn in the Manner therein stated;' and also one moiety and equal half part of the duties made payable on all horses, mares, geldings, or mules, respectively set forth in the respective schedules of the said acts, passed in the forty-eighth and fifty-second years aforesaid, marked Schedule (E.), No. 1, Schedule (E.), No. 2, Schedule (E.), No. 3, and Schedule (F.), No. 1; also, one moiety and equal half part of the duties on horses, mares, geldings, or mules, described in and granted by an act passed in the fifth-ninth year of his said late majesty's reign, intituled, 'An Act to continue Two Acts of the Fifty-Sixth and Fifty-Eighth Years of his present Majesty, for reducing the Duties payable on Horses used for the Purposes therein mentioned, to the Fifth Day of April, One Thousand Eight Hundred and Twenty-One, and to reduce the Duties chargeable under certain Acts of the Forty-Fifth and Fifty-Second Years of his present Majesty, in respect of certain Horses, Mares, Geldings, and Mules;' and which duties so reduced were made perpetual by the said act, passed in the first and second years of the reign of his said present majesty, *shall respectively cease and determine*, and be no longer paid or payable: provided, nevertheless, that the duties hereby reduced, and to be hereafter assessed and payable, shall not include any fraction of 1d."

3. *Of the Assessed Taxes themselves.*

4 Geo. 4, c. 11.

One moiety of the duties on windows;

on male servants;

on carriages;

and on horses, to cease.

Reduced duties not to include any fraction of one penny.

Commissioners to deduct so much of duties compounded for, as are repealed, and to cause reduced amount to be inserted in assessments of composition.

Contracts in force for recovering reduced instalments.

Sect. 3. "That it shall and may be lawful for the respective commissioners acting in the execution of the said acts and of this act, in their respective districts, and they are hereby authorized and required, to remit and deduct so much and such parts of the duties compounded for and included in any such contract as are repealed by this act, and also so much of the additional duty granted by the said acts, and payable by any such contract on the amount of any duty, or any portion of the duties so repealed, and to cause such reduced amounts to be inserted in the assessments of composition, and in the several duplicates thereof, to be delivered and returned by the said commissioners under the said acts in their respective districts, after the said 5th day of April, 1823, and during the periods of such respective compositions; and every such contract shall be of the same force and effect for the recovery and enforcing payment of the reduced instalments under the provisions of the said acts and of this act, to commence from the 5th day of April, 1823, to all intents as if the full amount of the instalments compounded for continued payable on such contracts."

Sect. 4. "That nothing herein contained shall be construed to revive, set up, or substitute any higher or other duty of assessed taxes granted by any

No other duties to be substituted in

(a) The 3 & 4 Wil. IV. c. 39, s. 4, repeals duties in certain cases of male servants.

3. *Of the Assessed Taxes themselves.*

4 Geo. 4, c. 11.
respect of the use
or employment of
occasional ser-
vants, taxed carts,
and horses, here-
tofore chargeable
with the duties,
repealed.

48 Geo. 3, c. 55,
Schedule (D.)
50 Geo. 3, c. 104,
s. 5, 52 Geo. 3, c.
93, Schedule (D.)
in part repealed.

Exemptions to
shopmen under
fifteen years, ex-
tended to shopmen
under eighteen
years (a).

Proviso.

Persons having
compounded for a

of the said acts in lieu of the duties hereby repealed, on all and every the person and persons respectively in the said acts described, who before the passing of this act were by the said recited acts authorized and empowered, on payment of the duties hereby repealed, to employ any male servant or person in the capacities first hereinbefore enumerated, or to keep or use any carriage hereinbefore described as a taxed cart, or any horse, mare, gelding, or mule hereinbefore also described, on payment of the duties hereby respectively repealed; but that all and every such person or persons who at any time within the year ending on the 5th day of April, 1823, in England and Wales, or the 24th day of May, 1823, in Scotland, have kept, retained, or employed, or who shall or may, from and after the passing of this act, retain or employ any such male servants and persons respectively, and keep and use any such carriage of the description of a taxed cart, and any horse, mare, gelding, or mule respectively, in the manner and according to the schedules, rules, and provisions prescribed by the said acts granting the said duties hereby repealed, shall and is hereby declared to be free of any other or higher duty or assessment chargeable under the said acts relating to the assessed taxes, for and in respect of the said male servants, persons, carriages, and horses respectively, for any year or years commencing from and after the respective days last aforesaid; and all and every the schedules, rules, and provisions of the said acts, for regulating and charging the said duties hereby repealed, shall remain and continue in full force and effect for protecting all and every such persons heretofore chargeable with such duties so repealed by this act, from any other or higher duty in lieu of the duties so repealed, so far as such servants, carriages, and horses respectively shall have been or shall be kept, employed, and used, in the manner and for the purposes in and by the said schedules, rules, and provisions last aforesaid respectively prescribed and allowed: provided nevertheless, that so much of the provisions contained in any of the said acts which require the words '*Taxed Cart*,' and the owner's christian and surname, and place of abode, and also the name and place of abode of the maker thereof, and the full value thereof, or the actual price or consideration paid or given for the same, to be marked or painted on a black ground in white letters, on the outside of the back pannel, or back part of any carriage, shall, from and after the passing of this act, be and are hereby declared to be discontinued and repealed; but every such carriage last aforesaid shall in every other respect (except as herein varied) be built and constructed according to the regulations of the said acts, and the rules therein contained; and it shall be lawful for any person or persons keeping and using any horse, mare, gelding, or mule, *bonâ fide* for the purposes of husbandry, to use any such horse, mare, gelding, or mule in drawing any carriage of the description of a taxed cart, the duty whereon is repealed by this act, and kept by any such person respectively for his, her, or their own use, free of any duty chargeable under the said acts in respect of any such horse, mare, gelding, or mule, in and by any assessment to be made for any year commencing from and after the said 5th day of April, 1823."

Sect. 5. "That the powers and provisions contained in an act passed in the fifty-ninth year of the reign of his said late majesty, for giving relief from the duties charged on shopmen by the said acts to every male person wholly maintained and lodged in the house of his employer or employers, such persons respectively being under the age of fifteen years, shall, upon every assessment made or to be made after the 5th day of April, 1823, be extended to all and every such male person described in the said act, being respectively under the age of eighteen years: provided always, that the causes of every exemption in respect of every such male person shall be truly returned and stated in the manner directed by the said act, and the several other acts in force before the passing of this act."

Sect. 6. "That in case any person who, having compounded under the said recited acts in respect of a carriage with two wheels, shall be desirous,

(a) See 3 & 4 Wil. IV. c. 29, repealing duties on *shopmen*.

during the year commencing on the 5th day of April, 1823, of discontinuing 3. *Of the As-*
 to keep the same, and of substituting a carriage with four wheels in lieu *essed Taxes*
 thereof, it shall be lawful for him, her, or them so to do, on giving notice of *themselves.*
 such his or her intention to the surveyor of the said duties acting for the dis-
 trict in which such person shall reside, within six calendar months after the
 passing of this act, on payment of the difference of duty so compounded for
 on a two-wheeled carriage, and reduced by this act, and the duty chargeable
 by the said act, and also reduced by this act, on a four-wheeled carriage,
 together with the duty of 5*l. per centum* on such difference, to be indorsed
 by certificate on every such contract of composition by any two of the com-
 missioners acting in the execution of the same acts in the district in which
 such contract shall have been entered into, and to be made payable from
 and after the 5th day of April, 1823, by half-yearly instalments, during the
 continuance of the said contract; and which additional payments shall be
 enforced in like manner as if they were originally inserted in every such
 contract; and any person seeking the benefit of this provision shall and may,
 during the continuance of his or her said composition, keep and use any
 four-wheeled carriage free of duty (a)."

4 Geo. 4, c. 11.

two-wheel car-
 riage may substi-
 tute a four-wheel
 carriage in the
 composition, pay-
 ing the difference
 of duty, and other
 duties herein men-
 tioned.

Additional pay-
 ments enforced.

Sect. 7. "That copies of all cases, which shall, after the passing of this
 act, be stated and signed by any commissioners acting in the execution of
 the said acts and of this act, at the instance and request of any assessor, in-
 spector, surveyor, or person appealing under the powers in the said acts con-
 tained, and which shall be determined by any one or more of the justices of
 the Courts of King's Bench or Common Pleas, or of the barons of the Court
 of Exchequer, for the time being at Westminster, in England, Wales, or
 Berwick-upon-Tweed, or by any one or more of the lords of the courts of ses-
 sions or barons of the Court of Exchequer in Scotland, shall, together with a
 copy or copies of the said judge's or judges' opinion and determination
 thereto subscribed, duly certified by the solicitors for the affairs of taxes for
 England and Scotland respectively, be annually laid before Parliament,
 within twenty-one days after the meeting thereof."

Copies of Tax-
 Office cases de-
 termined by the
 judges to be an-
 nually laid before
 Parliament.

Sect. 8. "That, upon any assessment of the said duties to be made upon
 the occupier of any *such* dwelling-house (viz. dwelling-houses not having
 more than six windows), from any year commencing from or after the 5th
 day of April, 1823, it shall be lawful for the respective commissioners acting
 in the execution of the said acts and of this act, in their respective districts,
 to grant relief to any such occupier having three children born in lawful
 wedlock, and wholly maintained by him or her, and at his or her expense,
 and to strike out the charge on any such occupier on the proof by the rules
 and in the manner authorized and required by the said recited acts in cases
 of exemption from the said duties by reason of poverty."

Enabling commis-
 sioners to exempt
 occupiers having
 three children
 and wholly main-
 tained by them,
 from duty on win-
 dows, where the
 house has not
 more than six
 windows (b).

Sect. 9 enacts, that all powers granted to commissioners and officers under
 former acts shall extend to this act."

The 5 Geo. IV. c. 44, s. 4, after reciting, that "whereas, by an act passed
 in the fifty-seventh year of his said late majesty's reign, provision is made
 for granting exemptions to persons in trade from the duties on houses, win-
 dows, and lights, and on inhabited houses, in respect of houses, tenements,
 or buildings, or parts of tenements or buildings, used solely by such persons
 for the purposes of trade, such persons respectively residing in a separate
 and distinct dwelling-house, or part of a dwelling-house, charged to the said
 duties, as in the said act described; and whereas it is expedient to extend
 the said exemptions to the cases herein mentioned;" enacts, "that, upon all
 assessments to be made for any year commencing from and after the 5th
 day of April, 1824, the provisions in the said act contained, for granting
 exemptions from the said duties to persons in trade, in respect of houses,
 tenements, or buildings, in the said act described, shall and may be extended

5 Geo. 4, c. 44.
 Exemption by 57
 Geo. 3, c. 25, to
 persons in trade,
 from house and
 window duties;

extended to per-
 sons using houses

(a) Persons so compounding to have longer in force, as the 6 Geo. IV. c. 7,
 the privileges of persons originally com- s. 1, entirely *repeals* the duties on win-
 compounding for a four wheel carriage, &c. dows when the house has less than *eight*
 (b) *Semble*, that this section is no windows. See *post*, 1028.

3. *Of the Assessed Taxes themselves.*

5 Geo. 4, c. 44.

under like circumstances as offices or counting houses in their professions or other callings.

Exemption not to extend to chambers in inns of court or colleges in the universities.

Repeal of duties on windows in dwelling-houses with not more than seven windows. Schedule (A.) of 48 Geo. 3, c. 55.

Schedule (B.)
Inhabited dwelling-houses under 10*l.* per annum.

Schedule (C.)
No. 3.
52 Geo. 3, c. 93.
Schedule (C.)
No. 3.

Occasional waiters in taverns, private houses, &c.

Male persons taking care of race-horses; taxed carts;

50 Geo. 3, c. 104.
No. 2.
52 Geo. 3, c. 93.
Schedule (D.)
No. 4.

and applied by the respective commissioners and officers acting in the execution of the said act and of this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or part of a tenement or building, in the said act described, which shall be used by such person or persons as *offices or counting-houses*, for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, *no person inhabiting*, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house, charged to the said duties; provided, nevertheless, that the exemption herein authorized shall not extend to any chamber or apartment in any of the inns of court or of Chancery, or to any college or hall in either of the universities of Oxford or Cambridge, now chargeable with any of the said duties; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, as are allowed by the said act to persons in trade; and all and every the provisions in the said act contained shall be observed, followed, and practised by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents as if such provisions formed part of the said act, passed in the fifty-seventh year aforesaid; anything herein contained to the contrary notwithstanding."

The 6 Geo. IV. c. 7, repeals certain duties of assessed taxes.

Sect. 1. "The several and respective duties granted and now payable to his majesty, by an act passed in the 48th year of the reign of his late majesty king George the Third, and as set forth in the schedule thereto annexed, marked (A.) (in the said first-mentioned act recited), for every dwelling-house, with the offices therein described, containing not more than six windows or lights, and not worth the rent of 5*l.* by the year; and for every dwelling-house, with the offices aforesaid, containing not more than six windows or lights, and of the said value of 5*l.* by the year; and for every such dwelling-house, with the offices aforesaid, containing *not more than seven windows or lights*; and also such of the duties of 1*s.* 6*d.* in the pound, granted on *inhabited dwelling-houses* by the said act passed in the forty-eighth year aforesaid, and the schedule thereunto annexed, marked (B.), as are now charged and chargeable, by the rules and directions therein contained, for every inhabited dwelling-house, with the offices and lands therein described, *being under the rent or value of 10*l.* by the year*; and also the several and respective duties granted and payable to his majesty by the said act passed in the forty-eighth year aforesaid, and described in the schedule thereto annexed, marked (C.), No. 3; and in another act, passed in the fifty-second year of the reign of his said late majesty, and as set forth in the schedule thereto also annexed, marked (C.), No. 3, (in the said first-mentioned act also described,) so far as such last-mentioned duties are severally charged or chargeable in respect of every *male person* employed as an *occasional waiter* in any tavern, coffee-house, inn, or other house, in the said schedule mentioned, for a period of six calendar months, and also for a lesser period than six calendar months in any year respectively; and for every such person, not being a servant, who has been or shall be employed as an occasional waiter in any private house, not less than six times within the year; and for every *male person* employed by any *stable-keeper* for or in expectation of profit, to take care of any horse, mare, or gelding, kept for the purposes of racing, running, or training, as therein described; and also all and every the duties on *taxed carts* granted to his majesty by an act passed in the fiftieth year of the reign of his said late majesty, and the schedule thereto marked No. 2; and also by the said act passed in the fifty-second year aforesaid, and described and set forth in the schedule thereto annexed, marked (D.), No. 4; and also all and every the duties granted to his majesty by the said acts passed in the forty-eighth and

fifty-second years aforesaid, and by the same schedule marked (D.), No. 5, and 3. *Of the Assessed Taxes themselves.*
 payable by *coachmakers* and makers of other carriages chargeable with duty by the said act, and on carriages made, sold, or repaired, as therein mentioned; and also the several duties granted to his majesty under the provisions of the said last-mentioned acts, and made payable by the said schedule marked (D.), No. 6, by persons *selling carriages by auction* or on commission; and also the duty granted to his majesty on *carriages with four wheels*, drawn by ponies, mules, oxen, or asses, and made payable by an act passed in the fifty-eighth year of his said late majesty's reign, intituled 'An Act for charging certain Duties on Four-wheeled Carriages constructed and drawn in the manner therein described;' and also the duty granted to his majesty by an act passed in the fifty-ninth year of the reign of his said late majesty, upon every person keeping any *mule* or mules for the purpose of carrying ore, slate, or stone, coal, or culm, to or from the mine or pit, or for the purposes of carrying lime, sea-sand, sea-weed, or other manure, on the backs of such mules, as therein mentioned, shall severally and respectively cease and determine; and all assessments for any year commencing as aforesaid, so far as the same shall apply to or contain all or any of the duties hereby repealed, shall be null and void."

6 Geo. 4, c. 7.

Schedule (D.)

No. 5.

Schedule (D.)

No. 6.

Coachmakers, &c.

Four-wheel carriages drawn by ponies, &c.

58 Geo. 3, c. 17.

59 Geo. 3, c. 13.

Mules carrying ore, &c. repealed.

Sect. 2. "That where the occupier or tenant of any dwelling-house, cottage, or tenement, chargeable with duty, shall quit the same after an assessment shall be made, and such occupier shall give notice thereof, on so quitting, to the assessor, in the manner directed by the said acts, the duty thereon shall be discharged by the commissioners for executing the said acts and this act, for the particular quarter or quarters of the year of such assessment, during which it shall appear to the said commissioners such house, cottage, or tenement, shall have continued for each entire quarter wholly empty and unoccupied, and although any such quitting shall not have taken place on the actual determination of the lease or demise by which such occupier or tenant held the premises in the manner described by the said act passed in the forty-eighth year aforesaid: provided also, that where any house, cottage, or tenement shall not have been built, or otherwise completed for occupation, at the time of making the assessments yearly, as directed by the said acts, and the same shall, after the expiration of the first or of any succeeding quarter of the year become occupied during a portion only of the year of assessment, such house, cottage, or tenement, shall, on notice of the commencement of occupation, to be given by the occupier in the manner directed by the said act, be assessed and charged with the said duties for that part only of the year of assessment during which such house, cottage, or tenement, shall be actually occupied,—to wit, from the end of the quarter of the year preceding such occupation; and when any window or windows shall be made, opened, or restored in any dwelling-house, cottage, or tenement, after the commencement of each year's assessment, and notice thereof shall be given as directed by the said acts, the assessments for the windows or lights in such house, cottage, or tenement, shall be amended in respect of any such additional window or windows, and the duty shall be charged and assessed for the full number of windows for the remainder only of the year commencing from the end of the quarter of the year preceding the increase of such window or windows; provided always, and in every case of default of notice of the commencement of occupation, or of the increase of windows, as directed by the said acts in the cases herein mentioned, and also in every case where any house, cottage, or tenement, shall become occupied, or the additional window or windows therein shall be made or restored within and before the expiration of the first quarter of the year of assessment, the assessments or amended assessments herein directed shall be made and payable for the whole of the year within which such occupation shall have commenced, or such additional number of window or windows shall have been made or restored: provided further, and where any additional window or windows shall be made, opened, or restored, in any house, cottage, or tenement, containing, at the commencement of the year of assessment not more than seven windows or lights, and thereby made free of duty under the

Proviso for houses becoming unoccupied; although not at the expiration of occupier's lease.

In what case houses completed and occupied after yearly assessments to be assessed only for portion of year.

In what manner increases by opening of windows made.

In default of notice, assessments made or mended for the whole year.

In what case assessments are to be made for the whole year, ac-

3. *Of the Assessed Taxes themselves.*

6 Geo. 4, c. 7.

According to the full number of windows chargeable with duty.

An unfurnished house, *bona fide* quitted, deemed an unoccupied house, though committed to a person to take care thereof.

Proviso for charge when such house becomes again occupied.

Exemption for one glazed window in dairy or cheese room of farm-house, by 57 Geo. 3, c. 25, s. 4, extended to two such windows, in certain cases (a).

Duty on interior windows deriving light from exterior windows, repealed.

A farm-house, or part thereof, *bona fide* occupied by

directions of this act, such house, cottage, or tenement, shall immediately thereupon become chargeable with duty for and in respect of the full number of windows therein; and an assessment shall in like manner be made, and the duties charged according to such full number of windows, and levied on the occupier or occupiers in respect thereof for the whole of the year in which any such additional window or windows shall be made, opened, or restored; all which assessments shall be made, mended, levied, and collected, by the like rules as any assessment to the said duties is directed to be made, amended, levied, and collected, under the directions of the said acts; anything in the said acts or this act contained to the contrary notwithstanding."

Sect. 3. "That any house or tenement from which the owner or occupier shall have *bona fide* removed, and which shall be wholly unfurnished at the time of making the assessment, shall be deemed and taken to be unoccupied, and not liable to assessment, although such house or tenement shall or may be left or committed to the care or charge of a person or servant who shall or may have been placed, and shall dwell therein solely for the purpose of airing the same, and of preventing depredation or injury to the premises during the period of their being so unoccupied: provided always, and every such house or tenement shall afterwards, and within the year of assessment, be liable to be brought into charge for the whole or a portion of the year, and shall be assessed in the manner directed by the said acts, on the same coming into the possession or occupation of any other person or persons according to the rules and provisions of the said acts; and where any such house or tenement shall become unoccupied in manner aforesaid, at any time after the commencement of the year, and after an assessment made thereon, it shall be lawful for the respective commissioners on due notice thereof by the owner or tenant, as in the other cases hereinbefore provided, to discharge such assessment for the entire quarter or quarters of the year during which it shall appear to the said commissioners such house or tenement shall have so continued wholly unfurnished and unoccupied, save and except by a person or servant for the purposes aforesaid; anything in the said acts or in this act contained to the contrary notwithstanding."

Sect. 4. "That the exemption from duty granted by an act passed in the fifty-seventh year of the reign of his late majesty, for one glazed window in any room used as a dairy or cheese-room in any dwelling-house being a farm-house, in the said act described, shall and is hereby declared to extend, from and after the fifth day of April, 1825, to any one such window made with glass in any dairy and to any one such like window made with glass in any cheese-room, where such rooms shall be distinct, and there shall be more than one room used for such purposes, or either of them, in any farm-house in the said act described: provided that the exemption for more than two such windows, shall not in any case be claimed or allowed for any farm-house; and the further exemption hereby granted shall be claimed and allowed in the manner directed by the said act in the case of one such glazed window."

Sect. 5. "That, upon all assessments to be made for any year commencing from and after the fifth day of April, 1825, all and every the window or windows in any part of a dwelling-house, tenement, or building, or of the household and other offices described in the said act, which shall be an interior window constructed so as wholly to derive and give light from any other window or windows, in the exterior wall or walls, or outside of any such house, tenement, or building, or offices aforesaid, or on the roof or roofs thereof respectively, such exterior window or windows being duly charged to the said duties, shall not be deemed and taken to be a window or light chargeable with duty; and so much of the rules and provisions in the said act contained, as relate or extend to the assessing and charging any such interior window or light, shall be, and the same are hereby repealed."

Sect. 6. "That where the whole or part only of any dwelling-house, being a farm-house, divided or not divided into distinct tenements, shall be

(a) See the exemptions in the 48 Geo. III. c. 55, 1037-8.

occupied by any labourer or labourers, servant or servants, *bonâ fide* retained and employed in affairs of husbandry by the occupier or tenant of the farm to which such dwelling-house shall belong, and no part thereof shall be occupied by the occupier or tenant of the said farm, or by any other person or persons (except as aforesaid), such dwelling-house, and the landlord, occupier, or tenant, shall, during the continuance of the occupation in manner aforesaid, be exempt from any duty chargeable for such house by the said acts: provided that every such exemption shall be duly claimed by the occupier or tenant of the farm, and allowed in the manner directed by the said acts as in other cases of exemption from the said duties."

3. *Of the Assessed Taxes themselves.*

6 Geo. 4, c. 7.

the labourers and servants of the farmer, exempt from duty.

Proviso.

Sect. 7. "That, upon all assessments of the said duties, to be made for any year commencing from and after the fifth day of April, 1825, it shall and may be lawful for the commissioners acting in the execution of the said acts, and of this act, in their respective districts, and they are hereby authorized and empowered, at the instance and request of any occupier or occupiers of any house, tenement, or building, for which exemption from the said duties is provided, and shall be duly claimed and allowed under the provisions of the said acts, to grant to any such occupier or occupiers a licence in writing, signed by any three of such commissioners, at a meeting and in the manner by the said first-mentioned act prescribed, authorizing such occupier or occupiers to appoint any one of his or her servant or servants named in such licence to watch and guard such house, tenement, or building, in the night-time; and that the abiding of such licensed servant therein, for the purposes only of watching and guarding the same under such licence, shall not render the occupier thereof liable to the duties by the said acts granted, for the year in which such exemption shall be allowed, and such licence shall be obtained; and which licence shall not in any case extend to authorizing any servant or servants to be named therein, or any part of his or her family, to inhabit or dwell in any such house, tenement, or building, as a place of residence; any thing in the said acts contained to the contrary notwithstanding."

Houses or tenements used only in the day-time for trade, &c., may be watched and guarded by a servant in the night, free of duty, a licence having been obtained from the commissioners for executing the said acts.

Sect. 8. "That nothing herein contained shall render any person or persons liable to a higher or other duty of assessed taxes in lieu of the duties hereby repealed, so far as the same apply to the particular person or article employed, kept, or used; provided that the employment or use, and also the construction of any carriage, shall not exceed the employment, use, or construction respectively allowed under the regulations of the said acts or of the act, and the rules and schedules therein, by which such duties hereby repealed were granted and regulated; and the provisions of the said act passed in the fourth year of his said majesty's reign, so far as the same apply to the protection of persons from further assessment to any other duty in lieu of the duties thereby repealed (subject as therein mentioned), shall be extended and applied to the duties hereby repealed, to all intents as if the same provisions were re-enacted by and made particularly applicable to the provisions of this act; and where any person or persons shall be chargeable with and duly assessed to the duty for any carriage with less than four wheels, and shall occasionally employ, in the capacity of groom, stable-boy, or helper in the stable, any person *bonâ fide* retained by him, her, or them for the purposes of husbandry, manufacture, or trade, such person or persons shall not be charged with any duty payable by the said acts in any year commencing from and after the said fifth day of April, 1825, for a male person, by reason of such occasional employment; and where any person, being a victualler duly licensed to sell ale or beer, shall employ any one male person under the age of fifteen years to draw, carry out, or deliver by retail, any ale, beer, or liquors, which any such victualler shall be duly licensed to sell, such victualler shall not be liable to any duty chargeable by the said acts for one such male person, by reason of such employment; and any person who shall have kept and used, or who shall keep and use, any carriage, built and constructed in every respect as a taxed cart, under the rules and regulations of the said acts, shall not be liable to any other or higher duty for such carriage in lieu of the said duty on taxed carts hereby

No higher or other duties to be substituted for those repealed.

Proviso.

Proviso for persons assessed for carriages with less than four wheels employing persons herein described as a groom, &c.

Victuallers employing boys under 15.

Persons keeping taxed-carts using seats not fixed, &c.

3. *Of the Assessed Taxes themselves.*

6 Geo. 4, c. 7.

Carriages with three wheels.

Farmers under 200*l.* a-year, letting horses occasionally for hire.

Repeal of duties on coachmakers not to exempt them from liabilities herein mentioned under existing acts.

Authority to commissioners of districts to reduce contracts of composition which contain any duty hereby repealed.

Contracts to be in force for payment of reduced instalments.

Treasury may allow compensation to clerks of commissioners when poundage found to be inadequate.

repealed, although such person shall or may have used, or shall use, the same with the seat of such carriage not fixed, or with such seat suspended by slings or braces; and any person who shall have kept and used, or who shall keep and use any carriage with three wheels, in every respect (other than in the number of wheels) built and constructed, and within the description contained in the said act passed in the fifty-eighth year of the reign of his said late majesty, for charging the duty hereby repealed on carriages with four wheels drawn by ponies, mules, oxen, or asses, shall not be chargeable with any duty for such carriages with three wheels; and any person or persons occupying a farm of less annual value than 200*l.* per annum, and making a livelihood principally thereby, shall be exempt from duty for any horses, mares, or geldings *bonâ fide* kept and generally employed by such person or persons for the purposes of husbandry on such farm, although such horses, mares, or geldings, or any of them, shall be occasionally let to hire or used by such person or persons in drawing for hire or profit, in the manner allowed by an act passed in the third year of the reign of his present majesty, by occupiers of farms of the like annual value, and making a livelihood solely thereby, and from the profits of such letting and use; any thing in the said several acts contained to the contrary notwithstanding."

Sect. 9. "That the repeal by this act of the said duties on coachmakers and on makers of carriages, and also on persons selling carriages by auction or on commission, shall not in any manner be construed or taken to exempt any or either of such description of persons from their several liabilities to keep and make entries for inspection, in books, of carriages built or constructed in the manner required by the said acts, and to deliver copies of entries made in such books to the assessor or assessors in the said acts described, subject to the penalties for default thereof, and relating thereto respectively, as provided and required by the several acts in force at the passing of this act; and which provisions, so far as the same apply to such coachmakers, and makers and sellers of carriages, are hereby declared to remain in full force; any thing in this act contained to the contrary notwithstanding."

Sect. 10. "That where any contract of composition now in force for any of the duties of assessed taxes doth contain any duty or duties repealed, or for which exemption is provided by this act, it shall be lawful for the commissioners acting in the execution of the said acts and of this act, in their respective districts, and they are hereby authorized and required, to cause every such contract, and the assessments and duplicates thereof or relating thereto, to be reduced in respect and to the amount of any such duty or duties hereby repealed or exempted with the additional duty payable thereon by virtue of such contract; and every such reduction shall commence and take effect from and after the days herein directed for the repeal of or exemption from such duties respectively; all which reductions shall and may be made under the rules and provisions of the said first-mentioned act passed in the fourth year of the reign of his said majesty, and of the several other acts in that behalf; and every such contract so reduced shall be of the same force and effect for the recovery and enforcing payment of the reduced instalments, to all intents as if the full amount of the instalments compounded for continued payable on such contracts."

Sect. 11. "That it shall and may be lawful for the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three or more of them, for the time being, or the high treasurer thereof for the time being, to order and direct the allowance and discharge of such actual expenses, or any part thereof, as shall be necessarily incurred by any such clerk in the due execution of the said acts, where such allowance shall appear to the said last-mentioned commissioners or high treasurer reasonable and proper to be made, over and above the allowance by poundage made to any such clerk for the particular year of assessment to which such expenses shall relate, under the authority of the said act; and the certificate of the commissioners for the affairs of taxes, or any three or more of them,

shall be an authority to the receivers-general respectively to pay such further allowance." 3. *Of the Assessed Taxes themselves.*

Sect. 12. "That in every case where any certificate for exemption on account of poverty, obtained in the manner by the said acts directed, shall be duly made and delivered to the respective commissioners, and shall be found and adjudged by them respectively to be sufficient for exempting any person or persons from any of the duties in respect of his or her dwelling-house hereby repealed, if such duties had continued payable, it shall and may be lawful for the said respective commissioners, and they are hereby authorized, upon the allowance of any such certificate, to grant the said exemption for one such dog to all intents as if the said duties in respect of the dwelling-house of the person seeking the benefit of the said exemption had been discharged from the assessment under any such certificate: provided always, that a due assessment shall be made for every such dog, and that the discharge thereof shall be made by the respective commissioners on the production and allowance of the said certificates, and in the manner prescribed for granting exemptions by the said acts."

6 Geo. 4, c. 7.

Exemptions to poor persons for one dog continued, notwithstanding repeal of certain duties on dwelling-houses.

Proviso.

Sect. 13. "That the several powers and provisions contained in this act shall be carried and put into execution by the several commissioners, assessors, collectors, inspectors, surveyors, and other officers appointed and acting in the execution of the said acts in their respective districts, and the several powers, rules, and provisions in the said acts contained, in assessing, collecting, granting exemptions from and enforcing, paying, and accounting for the said duties and compositions (except so far as the same are herein varied, or for which other provisions are made by this act), shall be practised and put in execution by such commissioners and other officers respectively, to all intents and subject to the like penalties and forfeitures and authorities to enforce and recover the same, as if such powers, rules, and provisions, penalties and forfeitures, had been expressly re-enacted and incorporated in and by this act; anything in this act contained to the contrary notwithstanding."

Powers granted to commissioners and officers under former acts to extend to this act.

III.—*Of the Assessed Taxes themselves.*

Secondly—THE DUTIES,

with the particular Rules and Exemptions affecting them (a).

We have seen that the 43 Geo. III. c. 161, and 48 Geo. III. c. 55, and the subsequent acts, after prescribing the general *rules* affecting the whole subject, enact *what duties* shall be paid, subject to certain *particular rules and exemptions*, in certain schedules, (A.) to (N.), which we will now proceed to consider in the following order: viz.

SCHEDULES.

- (A.) On Houses according to Number of Windows.
- (B.) On Inhabited Houses.
- (C.) On Servants.
- (D.) On Carriages.
- (E.) On Horses.
- (F.) On Horses not charged under last Schedule, and on Mules.
- (G.) On Dogs.
- (H.) On Horse-Dealers.
- (I.) On Hair-Powder.

(a) See the division of the subject, *ante*, p. 926.

3. *Of the Assessed Taxes themselves.*

- (K.) On Armorial Bearings.
- (L.) Game Licences.
- (M.) Exemptions.
- (N.) Forms of Certificates.

SCHEDULE (A.) ON WINDOWS (a).

48 Geo. III. c. 55; 4 Geo. IV. c. 11, s. 8; 6 Geo. IV. c. 7, s. 1; 2 & 3 Wil. IV. c. 113; 4 & 5 Wil. IV. c. 54, c. 73.

A SCHEDULE of the Duties made payable for every DWELLING-HOUSE within and throughout Great Britain, according to the NUMBER OF WINDOWS or Lights in each Dwelling-House and the Offices to be charged therewith.

NUMBER OF WINDOWS According to which the Dwelling-Houses and Offices under mentioned shall be charged.		Duties to be charged for Windows in every Dwelling- House and Offices in England, Wales, and Berwick-upon- Tweed, 48 G. 3, s. 55, Schedule (A.)	Duties now paya- ble (c).
Not more than 6 windows or lights (except in such houses which shall be worth the rent of 5 <i>l.</i> by the year, and shall be charged to the duty mentioned in schedule (B.), according to the rent thereof) (b).		£ s. d. 0 6 6	
Not more than 6 windows or lights, if of the value before mentioned, and charged to the said duty accordingly (b)		0 8 0	
7 windows or lights (b)		1 0 0	
8 — do.		1 13 0	0 16 6
9 — do.		2 2 0	1 1 0
10 — do.		2 16 0	1 8 0
11 — do.		3 12 6	1 16 3
12 — do.		4 9 6	2 4 9
13 — do.		5 6 6	2 13 3
14 — do.		6 3 6	3 1 9
15 — do.		7 0 0	3 10 0
16 — do.		7 17 0	3 18 6
17 — do.		8 14 0	4 7 0
18 — do.		9 10 6	4 15 3
19 — do.		10 7 6	5 3 9
20 — do.		11 4 6	5 12 3
21 — do.		12 1 0	6 0 6
22 — do.		12 18 0	6 9 0
23 — do.		13 15 0	6 17 6
24 — do.		14 11 6	7 5 9
25 — do.		15 8 6	7 14 3
26 — do.		16 5 6	8 2 9
27 — do.		17 2 0	8 11 0
28 — do.		17 19 0	8 19 6
29 — do.		18 16 0	9 8 0

(a) N.B. The 4 Geo. IV. c. 11, s. 1, reduced the former taxes to one half; and the 4 & 5 Wil. IV. c. 73, s. 2, exempts farm-houses belonging to farms under 200*l.* a-year from the payment of duties on windows after the 5th April, 1834. See section, *post*, 1039.

(b) The first three of this list of duties is repealed by the 6 Geo. IV. c. 7, s. 1,

which takes off the window-tax on houses having less than eight windows, and not worth the rent of 5*l.* per annum. *Ante*, 1028.

(c) The duties payable under the 48 Geo. III. c. 55, were reduced to one moiety, by the 4 Geo. IV. c. 11, s. 2, *ante*, 1025. This second column therefore, shows the *present* duties.

SCHEDULE (A.) ON WINDOWS—Continued.

3. Of the Assessed Taxes themselves.

N.B. Reduced to one half by 4 Geo. 4.c. 11.

NUMBER OF WINDOWS				Duties to be charged for windows in every Dwelling-House and Offices in England, Wales, and Berwick-upon-Tweed, 48 G. 3, c. 55, Schedule (A.)			Duties now payable (a).		
According to which the Dwelling-Houses and Offices under mentioned shall be charged.				£	s.	d.	£	s.	d.
30	windows or lights	.	.	19	12	6	9	16	3
31	— do.	.	.	20	9	6	10	4	9
32	— do.	.	.	21	4	6	10	12	3
33	— do.	.	.	22	3	0	11	1	6
34	— do.	.	.	23	0	0	11	10	0
35	— do.	.	.	23	16	6	11	18	3
36	— do.	.	.	24	13	6	12	6	9
37	— do.	.	.	25	10	6	12	15	3
38	— do.	.	.	26	7	0	13	3	6
39	— do.	.	.	27	4	0	13	12	0
40	to 44	do.	.	28	17	6	14	8	9
45	— 49	do.	.	31	13	6	15	16	9
50	— 54	do.	.	34	10	0	17	5	0
55	— 59	do.	.	37	6	0	18	13	0
60	— 64	do.	.	39	15	6	19	17	9
65	— 69	do.	.	42	0	6	21	0	3
70	— 74	do.	.	44	5	0	22	2	6
75	— 79	do.	.	46	10	0	23	5	0
80	— 84	do.	.	48	15	0	24	7	6
85	— 89	do.	.	51	0	0	25	10	0
90	— 94	do.	.	53	4	6	26	12	3
95	— 99	do.	.	55	9	6	27	14	9
100	— 109	do.	.	58	17	0	29	8	6
110	— 119	do.	.	63	6	6	31	13	3
120	— 129	do.	.	67	16	6	33	18	3
130	— 139	do.	.	72	6	0	36	3	0
140	— 149	do.	.	76	16	0	38	8	0
150	— 159	do.	.	81	5	6	40	12	9
160	— 169	do.	.	85	15	6	42	17	9
170	— 179	do.	.	90	5	0	45	2	6
180	and upwards	do.	.	93	2	6	46	11	3
And for every such dwelling-house which shall contain more than 180 windows or lights, for every window or light exceeding the number of 180				0	3	0	0	1	6

By stat. 4 Geo. IV. c. 11, s. 2, it is enacted, "that from and after the 5th of April, 1823, in England, Wales, and Berwick-upon-Tweed, on all assessments to be made for any year commencing from the day aforesaid, one moiety and equal half part of each and every of the duties on windows or lights shall respectively cease and determine, and be no longer paid or payable: provided nevertheless, that the duties hereby reduced, and to be hereafter assessed, shall not include any fraction of one penny."

4 Geo. 4, c. 11.
One moiety of the duties on windows shall cease.
Reduced duties shall not include any fraction of one penny.

RULES, in schedule (A.) 48 Geo. III. c. 55, for charging Windows or Lights (b).

"First.—The said several duties to be charged annually in respect of the windows or lights in every dwelling-house, with the household and other offices herein enumerated."

How chargeable,

(a) See note (c) in preceding page.
(b) See, further, the enactments in the 43 Geo. III. c. 161, ante, 991 to 1022; and as to distraining for arrear of duties, ante, 939.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (A.) ON WINDOWS—(Continued.)

Skylights, &c.	"Second.—All skylights, and all windows or lights, however constructed, in staircases, garrets, cellars, passages, and all other parts of dwelling-houses, to what use or purpose soever applied, and whether such windows or lights shall be in the exterior or interior parts of such dwelling-houses, to be charged to the said duties (b)."
Lights in offices.	"Third.—Every window or light in any kitchen, cellar, scullery, buttery, pantry, larder, washhouse, laundry, bakehouse, brewhouse, and lodging-room, belonging to or occupied with any dwelling-house, whether the same shall be within or contiguous to or disjoined from the body of such dwelling-house, shall be charged to the said duties."
Chargeable annually, from fifth April.	"Fourth.—The said duties to be charged yearly upon the occupier or occupiers of the houses, cottages, or tenements, in respect whereof the said duties shall be charged, and to be in force for one whole year from the fifth day of April in the year in which the same shall be charged, to be levied on such occupier or occupiers, or on his, her, or their respective executors or administrators, except as hereinafter provided."
Change of occupation.	"Fifth.—Where any change in the occupation of any house, cottage, or tenement, shall take place after the assessment shall be made, then and in such case the duties hereby directed to be charged on the occupier or occupiers of houses, cottages, or tenements, for one year, shall be levied upon and paid by the occupier or occupiers, landlord or landlords, owner or owners for the time being, or on both or all of them, according to their times or possession thereof, without any new assessment, notwithstanding such change in the occupation of such house, cottage, or tenement, for the year that such house shall have been assessed: provided, that, where a tenant of any house, cottage, or tenement, shall quit the same, on the determination of the lease or demise thereof, after an assessment shall be made, and shall have given notice thereof to the assessor for the place, the duty thereon shall be discharged by the commissioners for executing this act for the remainder of that year, in case it shall appear to the said commissioners at the end of such year, that such house, cottage, or tenement, shall have continued wholly unoccupied for and during the remainder of such year."
Houses let in apartments. (See XIII.)	"Sixth.—Where any dwelling-house is or shall be let in different apartments, tenements, lodgings, or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be charged as if such house was inhabited by one person or family only; and the landlord or owner, landlords or owners of such house, apartments or tenements, are or shall be deemed and taken to be the occupier or occupiers of such house, and shall be charged with the said duties: provided, that where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by such landlord for the space of twenty days after the same is due, the duties so charged may be levied on the occupier, or occupiers respectively, and such payment shall be deducted and allowed out of the next payment on account of rent."
Houses left in charge of servants.	"Seventh.—Every house, whereof the keeping is or shall be committed or left to the care or charge of any person or servant, shall be subject to the like duties as if it were inhabited by the owner or by a tenant; and, if such person or servant shall not pay rates to the church and poor, the said duties shall be paid by the respective owners or tenants of the said house."
Chambers in inns of court.	"Eighth.—Every distinct chamber or apartment in any of the inns of court, or of chancery, or in any college or hall, in either of the Universities of Oxford or Cambridge, or any public hospital, being severally in the tenure or occupation of any person or persons, shall be subject to the same duties as if the same was an entire house, which duties shall be paid by the occupier thereof respectively; provided, that every such chamber or apartment, which shall not contain more than seven windows or lights, shall be charged at the rate of 3s. 6d. for every such window or light."
Rooms in public halls.	"Ninth.—All dwelling-rooms in any hall or office whatever, belonging to any person or persons, or to any bodies politic or corporate, or to any company, that are or may be lawfully charged with the payment of any other taxes or parish rates, shall be subject to the duties hereby made payable, and shall be respectively charged as dwelling-houses; and the person or persons, bodies politic or corporate, or company, to whom the same shall belong, shall be charged as the occupier or occupiers thereof."
Partitions between windows.	"Tenth.—When a partition or division between two or more windows or lights, fixed in one frame, is or shall be the breadth or space of twelve inches, the window or light on each side of such partition or division shall be charged as a distinct window or light."

(b) By stat. 6 Geo. IV. c. 7, s. 5, the duty on *interior* windows deriving light from exterior windows is repealed. See, *ante*, 1030.

SCHEDULE (A.) ON WINDOWS—(Continued)

3. Of the Assessed Taxes themselves.

"Eleventh.—Every window extending so far as to give light into more rooms, landings, or stories than one, shall be reckoned and charged as so many separate windows as there are rooms, landings, or stories enlightened thereby."

Windows lighting two places.

"Twelfth.—Every window or light, including the frame, partitions, and divisions thereof, which by due admeasurement of the whole space on the aperture of the wall of the house or building, on the outside of such window or light, shall exceed in height twelve feet, or in breadth four feet nine inches, not being less than three feet six inches in height, shall be reckoned and charged as two windows or lights, except such windows or lights as shall have been made of greater dimensions at any time prior to the fifth day of April, one thousand seven hundred and eighty-five; except also the windows or lights in such parts of dwelling-houses as are used for shops, workshops and warehouses, and except the windows or lights in the public room of any house licensed to sell wine, ale, or other liquors by retail, which shall be used for the entertainment of guests; and the windows or lights in farm-houses especially exempted from the duties in the following schedule, marked (B.) or in any dwelling-house not chargeable to the duties mentioned in the said schedule."

Dimensions of windows.

"Thirteenth.—Where any dwelling-house shall be divided into different tenements, being distinct properties, every such tenement shall be subject to the same duties as if the same were an entire house, which duties shall be paid by the occupiers thereof respectively; provided, that every such tenement in England, Wales, or Berwick-upon-Tweed, which shall not contain more than seven windows or lights, shall be charged at the rate of 3s. 6d. for every such window or light; and every such tenement in Scotland which shall not contain more than seven windows or lights, shall be charged at the rate of 3s. for every such window or light."

Distinct tenements. (See IV.)

*EXEMPTIONS from the said Duties, in Schedule (A.) of 48 Geo. III.
c. 55 (a).*

"Case I.—Any house belonging to his majesty, or any of the royal family; and every public office for which the duties heretofore payable have been paid by his majesty, or out of the public revenue."

Royal family, public offices.

"Case II.—Any hospital, charity-school, or house provided for the reception and relief of poor persons, except such apartments therein as are or may be occupied by the officers or servants thereof, which shall severally be assessed, and be subject to the said duties as entire dwelling-houses."

Hospitals, &c.

"Case III.—The windows in any room of a dwelling-house, licensed according to law as a chapel for the purposes of divine worship, and used for no other purpose whatsoever:

Chapels.

"Provided that every such hospital, charity-school, houses for the reception and relief of poor persons, or room licensed as a chapel as aforesaid, shall be brought into charge by the assessor or assessors, or in their default, by the surveyor or inspector, and shall be stated on the certificate of assessments as such; and on due proof of the fact before the commissioners by the assessors, it shall be lawful for the commissioners for executing the said act to discharge such hospital, charity-school, house for the reception and relief of poor persons, and room licensed as a chapel, from the said duties, or such part thereof as is hereby intended to be exempted, in like manner as they are authorized to discharge the assessment on poor persons by this act, but not otherwise."

Proviso for charging hospitals, chapels, &c.

"Case IV.—The windows or lights, in any dairy or cheese-room belonging to and occupied with any dwelling-house, chargeable with the said duties, although the same shall be part thereof, which shall be used by such occupier or occupiers for the purpose of keeping butter or cheese, being their own produce, for sale or private use; provided that the windows or lights in such dairies or cheese-rooms shall be made with splines or wooden laths, or iron bars, or wires, and wholly without glass, and that the occupiers of the dwelling-houses to which such dairies and cheese-rooms belong, shall paint or cause to be painted on the outer door thereof, or on the outside of the windows thereof, or one of them, in large Roman letters, the words, "dairy," or "cheese-

Dairies.

(a) In *Lake's Case*, 8 Price, 105, it was held, that the windows of the lower room of a dwelling-house, used as an accounting room, and having no communication with the dwelling part of such house, are not within the exemptions of the 57 Geo. III., but were liable to the duties. (And see *Rex v. Dryden*, 8 Price, 103, *post*, 1040, note (a)).

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SCHEDULE (A.) ON WINDOWS—(Continued.)

room," as the case may require, and shall keep, and from time to time restore such words so painted distinctly legible, during all such time as such exemption shall be claimed; and provided, that such dairies or cheese-rooms shall not be at any time or times used to dwell in or to sleep in by any person or persons, but shall be wholly kept and used for the several purposes hereinbefore mentioned; and provided, also, that an assessment of all such windows or lights shall be duly made, and the fact be truly returned in the manner directed by this act, in other cases of exemption from the said duties, so that the number of windows so to be exempted may be ascertained, and the exemption be allowed by the commissioners for executing this act."

57 Geo. 3, c. 25.
But such tenements may be brought into assessment.

Persons claiming relief to give notice.

Tenements to be inspected.

Stat. 57 Geo. III. c. 25, s. 2, provides, "that all such tenements or buildings, whether employed wholly for the purposes of trade, or as warehouses for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, may be brought into assessment as dwelling-houses in the manner directed by the said act; and every person intending to be relieved from the assessment made in respect of his or her tenement or building used for the purposes of trade, or as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, by virtue of this act, shall in such case give notice thereof to the assessor or surveyor of or for the parish or place where such last-mentioned tenement or building shall be situate, and at the same time deliver a declaration in writing, stating the parish or place where the dwelling-house or dwelling-houses, or part of a dwelling-house used as the residence of him, her, or them, or his, her, or their family or families, are respectively situate; and every assessor or surveyor to whom such notice and declaration shall be delivered, and every surveyor of the district acting for such parish or place, whether he shall have received such notice and declaration or not, who shall have information of such claim being made or to be made, shall upon request, from time to time and at all times in the day-time, be admitted to inspect and survey the tenement or building described to be so employed, as well internally as externally, and shall inquire and examine into the uses and purposes to which the same is or has been employed; and if after any such claim made, or before or after allowance thereof, it shall be discovered that the same tenement or building hath been employed for any other use than for the purposes of trade, or as a warehouse for lodging goods, wares, or merchandize, or as a shop or counting-house, or that any person doth inhabit or dwell therein, except as aforesaid, then on due proof thereof before the said commissioners, they shall and are hereby required to assess and charge the said tenement or building as a dwelling-house to the duties granted by the said act, notwithstanding such claim or any thing hereinbefore contained to the contrary: provided always, that nothing hereinbefore contained shall be construed to impeach or affect any exemption from the said duties expressly contained in the said recited act."

Mills or places of manufacture, &c. not attached to a dwelling-house not liable to duty, though a servant licensed to guard the same abide therein.

Sect. 4 provides, "that the occupier of any mill or place of manufacture, or warehouse, not being part or parcel of any dwelling-house, nor attached or adjoining to any dwelling-house, nor having any internal communication therewith, may by the licence in writing of the commissioners of the district, signed by them, or any three or more of them assembled at any meeting, after due notice given by the occupier of such mill or place of manufacture, appoint any one of his or her servants named in such licence to watch and guard the said mill, or place of manufacture, or warehouse, in the night-time, and that the abiding of such licensed servant therein, for the purpose of watching and guarding the same, shall not render the occupier thereof liable to any of the duties granted by the said recited act."

6 Geo. 4, c. 7.
The exemption for one glazed window in the dairy or cheese-room of a

By stat. 6 Geo. IV. c. 7, s. 4, "the exemption from duty granted by an act passed in the fifty-seventh year of the reign of his late majesty, for one glazed window in any room used as a dairy or cheese-room in any dwelling-house being a farm-house, shall extend, from and after the 5th day of April, 1825, to any one such window made with glass in any dairy, and to any one such

like window made with glass in any cheese-room, where such rooms shall be distinct, and there shall be more than one room used for such purposes, or either of them, in any farm-house; provided that the exemption for more than two such windows shall not in any case be claimed or allowed for any one farm-house; and the further exemption hereby granted shall be claimed and allowed in the manner directed by the said act in the case of one such glazed window."

Sect. 6. "Where the whole or part only of any dwelling-house, being a farm-house, shall be occupied by any labourer or servant, *bonâ fide* retained and employed in affairs of husbandry by the tenant of the farm to which such dwelling-house shall belong, and no part thereof shall be occupied by the tenant of the said farm, or by any other person (except as aforesaid), such dwelling-house, and the landlord or tenant, shall, during the continuance of the occupation in manner aforesaid, be exempt from any duty chargeable for such house by the said acts; provided that every such exemption shall be duly claimed by the tenant of the farm, and allowed in the manner directed by the said acts as in other cases of exemption from the said duties."

By stat. 4 & 5 Wil. IV. c. 73, s. 2, "Every dwelling-house, being a farm-house *bonâ fide* used for the purposes of husbandry only, and occupied by the tenant of a farm at rack-rent the rent of which farm shall be less than 200*l.* a-year, or occupied by any person who shall be the occupier of any estate on any other tenure than as tenant at rack-rent solely, or by the occupier of such estate as last-mentioned who shall also be the occupier of a farm at rack-rent the value of which in the whole shall be less than equivalent to a farm at the rack-rent of 200*l.* a-year, (reckoning the value of every estate occupied by the owner thereof, or on any other tenure than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent,) shall be exempt from the duties on windows or lights granted by an act passed in the forty-eighth year of the reign of King George the Third, and specified in the schedule marked (A.) thereto annexed; provided the occupier of such dwelling-house shall not derive any profit or income exceeding 100*l.* a-year from any other source than the said farm or estate so occupied by him as aforesaid."

By stat. 4 Geo. IV. c. 11, s. 1, after reciting that, "whereas certain duties were granted to his majesty upon houses, windows, and lights, as set forth in the schedule marked (A.) to stat. 48 Geo. III. c. 55, and that it is expedient finally to determine certain of the said duties on windows or lights now payable in respect of *shops or warehouses being part of dwelling-houses* occupied by persons in trade, it is enacted, that from and after the 5th of April, 1823, in that part of Great Britain called England, Wales, and the town of Berwick-upon-Tweed, for and in respect of and upon all assessments to be made for any year commencing from the day and year last aforesaid, so much of the duties on windows and lights in shops or warehouses, being parts of dwelling-houses, in respect of any number not exceeding three such windows or lights in any shop or warehouse in the front or fronts, and on the ground or basement story of every dwelling-house occupied by any person in trade, who shall expose to sale or sell any goods, wares, or merchandizes in any such shop or warehouse, thereinbefore described, and all assessments thereon for any year commencing from and after the day aforesaid, shall severally cease and determine."

By stat. 5 Geo. IV. c. 44, s. 4, reciting, "whereas by stat. 57 Geo. III. c. 25, provision is made for granting exemptions to persons in trade from the duties on houses, windows, and lights, and on inhabited houses, in respect of houses, tenements, or buildings, or parts of tenements or buildings, used solely by such persons for the purposes of trade, such persons respectively residing in a separate and distinct dwelling-house, or part of a dwelling-house, charged to the said duties, as in the said act described: and whereas it is expedient to extend the said exemptions to the cases herein mentioned; it is enacted, that upon all assessments to be made for any year commencing from and after the 5th April, 1824, the provisions in the said act contained,

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farm-house, by 57 Geo. 3, c. 25, extended to two such windows in certain cases.

A farm-house *bonâ fide* occupied by the labourers and servants of the farmer, exempt from duty.

4 & 5 Wil. 4, c. 73. Farm-houses belonging to farms under 200*l.* a-year exempted from the duties on windows.

4 Geo. 4, c. II. Exemptions.

From April 5, 1823, duties on windows in shops or warehouses, in dwelling-houses, repealed.

5 Geo. 4, c. 44. Exemption by stat. 57 Geo. 3, c. 25, to persons in trade, from the houses and window duties in respect of houses used solely for trade; extends to persons using

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houses under like circumstances as offices or counting-houses in their professions or other callings.

Not to extend to chambers in inns of court, &c.

2 & 3 Wil. 4, c. 113.
Extending the exemption granted by the acts of 57 Geo. 3, and 5 Geo. 4, to persons in trade in respect of the window duties on houses used solely for trade.

Exception.

for granting exemptions from the said duties to persons in trade, in respect of houses, tenements, or buildings in the said act described, shall and may be extended and applied by the respective commissioners and officers acting in the execution of the said act, and of this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or *part* of a tenement or building, in the said act described, which shall be used by such person or persons as *offices or counting-houses* for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house charged to the said duties: provided nevertheless, that the exemption herein authorized shall not extend to any chamber or apartment in any of the inns of court or of Chancery, or to any college or hall in either of the universities of Oxford or Cambridge, now chargeable with any of the said duties; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, as are allowed by the said act to persons in trade; and all and every the provisions in the said act contained shall be observed, followed, and practised by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents as if such provisions formed part of stat. 57 Geo. III. c. 25, anything herein contained to the contrary notwithstanding (a)."

By stat. 2 & 3 Wil. IV. c. 113, s. 3, after reciting that by the stat. 57 Geo. III. and the stat. 5 Geo. IV. c. 44, "provision is made for granting exemptions from the duties on houses, windows, and lights, and upon inhabited houses, to persons in respect of tenements or buildings wholly occupied by them in the day-time only for the purposes of their trades or professions, where such persons also reside in a separate and distinct dwelling-house or part of a dwelling-house charged to the said duties; and that the exemption under the provisions of the said acts cannot be acquired and granted for a lesser period than the whole year's assessment; and it is expedient to apply the said exemptions to occupiers for parts of the same year in the cases of changes of occupation herein mentioned;" it is enacted, "That where any person or persons in the said acts or either of them described shall have occupied a tenement or building, or part of a tenement or building, for the uses and purposes allowed by the said exemptions in the said acts contained, for a lesser period than the year of assessment, and for and during any entire quarter or quarters only thereof, it shall be lawful for the respective commissioners, on the exemption for such entire quarter or quarters being duly claimed, by a notice and declaration in the manner required by the said acts for claiming exemptions for the year of assessment, to discharge the assessment for the entire quarter or quarters of the year for which the said exemption shall be claimed and established: provided always, that no such claim shall be allowed to any person under this act who shall occupy the same premises as a dwelling-house, and as a tenement or building for the purposes of exemption, at different periods during one year of assessment, nor unless the occupier or occupiers quitting or the occupier or occupiers commencing the occupation of the premises in the manner allowed by the said exemptions, and who shall seek the benefit of this provision, shall, before the quitting or commencement of occupation respectively, give notice thereof to the assessor or surveyor in the manner required by the acts in force for authorizing allowances for parts of the year on changes of occupation (a)."

(a) *Rex v. Dryden*, 8 Price, 103. The lower part of a small house used as an office, adjoining the dwelling-house of the party, and having an internal communication with the latter, is not exempt from the assessed taxes on windows, as being within

The 57 Geo. III. c. 25, *ante*, 1023, and 6 Geo. IV. c. 7, s. 4, *ante*, 1030, 3. *Of the Assessed Taxes themselves.*
create exemptions for two glazed windows in a dairy in a farm-house.

Repeal of Duties on Windows in Shops, &c., and certain Exemptions.

By the 4 Geo. IV. c. 11, s. 1, after reciting "that, by 48 Geo. III. c. 55, certain duties were granted upon houses, windows, and lights, as set forth in the schedule to that act, marked (A.), and that it was expedient finally to determine certain of the said duties on windows and lights then payable, in respect of shops or warehouses being part of dwelling-houses occupied by persons in trade," it is enacted, "that so much of the said duties on windows or lights *in shops or warehouses*, being parts of dwelling-houses chargeable by the said first-mentioned act, in respect of any number not exceeding *three such windows*, or lights *in any shop or warehouse in the front or fronts*, and on the ground or basement story of every dwelling-house occupied by any person or persons in trade, who shall expose to sale or sell any goods, wares, or merchandizes in any such shop or warehouse; and all assessments thereon for and in respect of any year commencing from and after the respective days aforesaid, shall severally cease and determine." See *ante*, 1024.

The eighth section enables the commissioners to exempt from reduced duties persons having three children, and wholly maintained by them, who occupy houses having not more than *six* windows; but see the note (b), 1027.

Provisions in the 43 Geo. III. c. 161, respecting the Assessment on Windows, and the Exemptions from Assessment.

See the act, sects. 10, &c., *ante*, 995 to 1022, and cases thereon.

By 4 & 5 Wil. IV. c. 54, s. 7, persons assessed to, or who have *compounded for window tax* for year ending 5th April, 1835, and persons not then liable to said tax, may open additional windows free of duty, and provides as to additions made to houses.

SCHEDULE (B.) ON INHABITED HOUSES (a).

[48 Geo. III. c. 55, *ante*, 1022; 6 Geo. IV. c. 7, *ante*, 1028; 4 Wil. IV. c. 19.]

By 4 Wil. IV. c. 19, after reciting that "whereas by an Act passed in the forty-eighth year of the reign of king George the Third, intituled, 'An Act for repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof, and certain additional Duties to be consolidated therewith; and also for repealing the Stamp Duties on Game Certificates, and granting new Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes,' certain duties of 1s. 6d., 2s., 3d. and 2s. 10d. in the pound respectively were granted and made payable yearly on all inhabited dwelling-houses throughout Great Britain, according to the value thereof as specified in schedule (B.) to the said act annexed: and whereas by an act 48 Geo. 3, c. 55, passed in the third and fourth years of the reign of his present majesty, and 3 & 4 Wil. 4, intituled 'An Act to reduce certain of the Duties on Dwelling-Houses, and c. 39, recited.

4 Wil. 4, c. 19.

the first section of the 57 Geo. III. c. 25, on the ground of its being used as an office, and for no other purpose. Nor is a room, having no communication with the dwelling-house, if it be part of the house, within the exemption of the statute as being used only for an office. (*Ibid.*)

(a) See division of the subject, *ante*,

926, 7; and see the enactments and decisions on 43 Geo. III. c. 161, *ante*, 992 to 1022; 3 & 4 Wil. IV. c. 39, s. 1, 2, & 3, reducing duties, &c.; and by 4 Wil. IV. c. 19, duties payable under 3 & 4 Wil. IV. c. 39, repealed from 5th April, 1834.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

Duties on inhabited houses repealed from 5th April, 1834.

Commissioners of assessed taxes to reduce compositions which include the above-mentioned duties.

Reduction to take effect from same date.

Qualifications conferred by payment of said duties to remain with the occupiers of houses of the rent or value specified in recited acts.

to repeal other Duties of Assessed Taxes,' certain reduced duties were granted and made payable on inhabited dwelling-houses in certain cases in the said last-recited act specified, in lieu of the duties so as aforesaid granted and made payable by the said act of the forty-eighth year of king George the Third: and whereas it is expedient to repeal the said duties on inhabited dwelling-houses; be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the 5th day of April, 1834, the said duties so as aforesaid granted and made payable on inhabited dwelling-houses, and all compositions in lieu of the said duties, shall cease and determine, and the same are hereby repealed, so far as relates to any assessment of the duties of assessed taxes, or of compositions in lieu thereof, to be made for any year commencing from or after the said 5th day of April, 1834."

2. "Where any contract of composition now in force for any of the duties of assessed taxes doth include the duty on any inhabited dwelling-house or dwelling-houses repealed by this act, it shall be lawful for the commissioners acting in the execution of the several acts relating to the said duties, in their respective districts, and they are hereby authorized and required, to cause the amount of the composition payable under such contract, and the assessments and duplicates relating thereto, for any year commencing as aforesaid, to be reduced to the extent of the said duty hereby repealed, and of the additional duty payable thereon by virtue of such contract, and such reduction shall commence and take effect from and after the said 5th day of April, 1834; and all such contracts shall be of the same force and effect for the recovery and enforcing payment of the reduced instalments of composition, to all intents and purposes, as if the full amount of the instalments compounded for had continued payable on such contracts."

Sect. 3. "Where under or by virtue of any act or acts in force, in order to qualify or entitle any person to vote at the election of any commissioner or commissioners, or as a qualification for any other purpose, it is required that such person shall occupy a dwelling-house assessed to the said duties on inhabited dwelling-houses at a certain rent or value, it shall be sufficient to entitle any such person to vote on any such occasion, and it shall be deemed to be a sufficient qualification, or for any such purposes as aforesaid, if such person shall occupy a dwelling-house, which shall be *bonâ fide* of the rent or value specified or required in or by any such act or acts as aforesaid, without reference to any assessment of the said duties hereby repealed, provided such person shall be in other respects duly qualified for any such purpose as aforesaid; and in case of dispute such rent or value shall be ascertained and determined according to the rules and directions contained in the said schedule (B.) annexed to the said recited act of the forty-eighth year of king George the Third."

"A SCHEDULE of the Duties made payable on all INHABITED DWELLING-HOUSES throughout Great Britain, according to the Value thereof, and of the Offices and Lands to be charged therewith."

How far repealed by 4 Wil. IV. c. 19, see *post*.

"For every such inhabited house which, with the household and other offices, yards, and gardens, therewith occupied and charged, are or shall be worth the rent hereinafter mentioned by the year, there shall be charged the yearly sums following: *videlicet*,

	Value in the Pound.
	£ s. d.
5 <i>l.</i> (a) and under 20 <i>l.</i> rent, by the year	0 1 6
20 <i>l.</i> and under 40 <i>l.</i> rent, by the year	0 2 3
40 <i>l.</i> rent by the year, and upwards	0 2 10

(a) The 6 Geo. IV. c. 7, s. 1. repeals 4 Wil. IV. c. 19, entirely repeals duties on the duty on inhabited houses under the value of 10*l.* per annum, *ante*, 1028; and *ante*, 1041.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

3. Of the Assessed Taxes themselves.

Rent.			At per Pound.		Total per Year.			Rent.			At per Pound.		Total per Year.		
£	s.	d.	s.	d.	£	s.	d.	£	s.	d.	s.	d.	£	s.	d.
10	0	0	1	6	0	15	0	56	0	0	2	10	7	18	8
11	0	0	1	6	0	16	6	57	0	0	2	10	8	1	6
12	0	0	1	6	0	18	0	58	0	0	2	10	8	4	4
13	0	0	1	6	0	19	6	59	0	0	2	10	8	7	2
14	0	0	1	6	1	1	0	60	0	0	2	10	8	10	0
15	0	0	1	6	1	2	6	61	0	0	2	10	8	12	10
16	0	0	1	6	1	4	0	62	0	0	2	10	8	15	8
17	0	0	1	6	1	5	6	63	0	0	2	10	8	18	6
18	0	0	1	6	1	7	0	64	0	0	2	10	9	1	4
19	0	0	1	6	1	8	6	65	0	0	2	10	9	4	2
20	0	0	2	3	2	5	0	66	0	0	2	10	9	7	0
21	0	0	2	3	2	7	3	67	0	0	2	10	9	9	10
22	0	0	2	3	2	9	6	68	0	0	2	10	9	12	8
23	0	0	2	3	2	11	9	69	0	0	2	10	9	15	6
24	0	0	2	3	2	14	0	70	0	0	2	10	9	18	4
25	0	0	2	3	2	16	3	71	0	0	2	10	10	1	2
26	0	0	2	3	2	18	6	72	0	0	2	10	10	4	0
27	0	0	2	3	3	0	9	73	0	0	2	10	10	6	10
28	0	0	2	3	3	3	0	74	0	0	2	10	10	9	8
29	0	0	2	3	3	5	3	75	0	0	2	10	10	12	6
30	0	0	2	3	3	7	6	76	0	0	2	10	10	15	4
31	0	0	2	3	3	9	9	77	0	0	2	10	10	18	2
32	0	0	2	3	3	12	0	78	0	0	2	10	11	1	0
33	0	0	2	3	3	14	3	79	0	0	2	10	11	3	10
34	0	0	2	3	3	16	6	80	0	0	2	10	11	6	8
35	0	0	2	3	3	18	9	81	0	0	2	10	11	9	6
36	0	0	2	3	4	1	0	82	0	0	2	10	11	12	4
37	0	0	2	3	4	3	3	83	0	0	2	10	11	15	2
38	0	0	2	3	4	5	6	84	0	0	2	10	11	18	0
39	0	0	2	3	4	7	9	85	0	0	2	10	12	0	10
40	0	0	2	10	5	13	4	86	0	0	2	10	12	3	8
41	0	0	2	10	5	16	2	87	0	0	2	10	12	6	6
42	0	0	2	10	5	19	0	88	0	0	2	10	12	9	4
43	0	0	2	10	6	1	10	89	0	0	2	10	12	12	2
44	0	0	2	10	6	4	8	90	0	0	2	10	12	15	0
45	0	0	2	10	6	7	6	91	0	0	2	10	12	17	10
46	0	0	2	10	6	10	4	92	0	0	2	10	13	0	8
47	0	0	2	10	6	13	2	93	0	0	2	10	13	3	6
48	0	0	2	10	6	16	0	94	0	0	2	10	13	6	4
49	0	0	2	10	6	18	10	95	0	0	2	10	13	9	2
50	0	0	2	10	7	1	8	96	0	0	2	10	13	12	0
51	0	0	2	10	7	4	6	97	0	0	2	10	13	14	10
52	0	0	2	10	7	7	4	98	0	0	2	10	13	17	8
53	0	0	2	10	7	10	2	99	0	0	2	10	14	0	6
54	0	0	2	10	7	13	0	100	0	0	2	10	14	3	4
55	0	0	2	10	7	15	10								

And so on at the rate of 2s. 10d. in the pound for a rent of any amount.

“ *RULES on the 48 Geo. III. c. 55, Schedule (B.), for Charging the said last-mentioned Duties (a).*

“ First.—The said last-mentioned duties to be charged annually on the occupier or How chargeable. occupiers for the time being of every such dwelling-house, being of the annual rent of

(a) By the 6 Geo. IV. c. 7, s. 1, repealed on all houses under the value of 10*l.* per annum, *ante*, 1023. In consequence of the 3rd sect. of 3 & 4 Wil. IV. c. 39, the following rules are retained. But now see 4 Wil. IV. c. 19, s. 1, repealing duties on inhabited houses from 5th of April, 1835, *ante*, 1041.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

	5 <i>l.</i> or upwards (a), at the respective rates before mentioned, and to be levied on him, her, or them, or on his, her, or their respective executors or administrators, and in like manner, in case of a change in the occupation thereof, as is before directed in respect of the duties on windows or lights, and in addition to the duties contained in Schedule (A.)."
Outhouses.	"Second.—Every coachhouse, stable, brewhouse, washhouse, laundry, woodhouse, bakehouse, dairy, and all other offices, and all yards, courts, and curtilages, and gardens and pleasure-grounds, belonging to and occupied with any dwelling-house, shall, in charging the said duties, be valued together with such dwelling-house; provided no more than one acre of such gardens and pleasure-grounds shall, in any case, be so valued."
Shops and warehouses attached.	"Third.—All shops and warehouses which are attached to the dwelling-house, or have any communication therewith, shall, in charging the said duties, be valued together with the dwelling-house and the household and other offices aforesaid thereunto belonging (except such warehouses and buildings upon or near adjoining to wharfs which are occupied by persons who carry on the business of wharfingers, and who have dwelling-houses upon the said wharfs for the residence of themselves or servants employed upon the said wharfs)."
Warehouses detached.	"And also except such warehouses as are distinct and separate buildings, and not parts or parcels of such dwelling-houses, or the shops attached thereto, but employed solely for the purpose of lodging goods, wares, and merchandize, or for carrying on some manufacture (notwithstanding the same may adjoin to or have communication with the dwelling-house or shop)."
Chambers in inns of court, &c.	"Fourth.—Every chamber or apartment in any of the inns of court, or of chancery, or in any college or hall in any of the universities of Great Britain, being severally in the tenure or occupation of any person or persons, shall be charged thereto as an entire house, and on the respective occupiers thereof."
Public halls, &c.	"Fifth.—Every hall or office whatever belonging to any person or persons, or to any body or bodies politic or corporate, or to any company, that are or may be lawfully charged with the payment of any other taxes or parish rates, shall be subject to the duties hereby made payable as inhabited houses; and the person or persons, bodies politic or corporate, or company, to whom the same shall belong, shall be charged as the occupier or occupiers thereof."
Houses let in apartments. (See XIV.)	"Sixth.—Where any house shall be let in different stories, tenements, lodgings, or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be subject to, and shall in like manner be charged to, the said duties, as if such house or tenement was inhabited by one person or family only, and the landlord or owner shall be deemed the occupier of such dwelling-house, and shall be charged to the said duties; provided that, where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by such landlord for the space of twenty days after the same is due, the duties so charged may be levied on the occupier or occupiers respectively; and such payments shall be deducted and allowed out of the next payment on account of rent."
Value, according to poor's rate.	"Seventh.—No dwelling-house or other such premises as aforesaid shall be estimated or rated at any less annual value than the rent or value at which the same premises stand charged in the last rate made on or before the time of making the assessment for the relief of the poor in the same parish or place."
If poor's rate on full value.	"Eighth.—In case the said poor-rate shall have been made throughout by a pound-rate on the full annual value of all the dwelling-houses in the same parish or place, then such assessment shall be made according to the said rate; and the assessors appointed or to be appointed for the said duties shall, in making their assessments on different dwelling-houses in the same parish or place, in all such cases as aforesaid, observe the same rule of proportion between the assessment of the duties granted by this act thereon, as shall have been observed in making such poor-rate as to all the premises aforesaid rated in such poor-rate."
If on proportionate value.	"Ninth.—In case the said poor-rate shall have been made on any proportionate part of such value, then such assessors shall assess the same at the same sums respectively as they would have been assessed at by virtue of this act, if the same had been respectively estimated in such poor-rate at the full value thereof respectively."
If otherwise.	"Tenth.—In case the poor-rate in any parish or place shall not be made on the full annual value of the different dwelling-houses charged, nor according to any propor-

(a) See note (a), p. 1042.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

3. *Of the Assessed Taxes themselves.*

tionate part of such annual value, but, nevertheless, the said dwelling-houses shall be rated in a due proportion to each other, it shall be lawful for the assessors, by all lawful ways and means authorized by this act, to inquire into, and, to the best of their information and judgment, to ascertain the actual rent of the several houses and other the premises aforesaid, in different occupations within their limits, which shall have been let within the period of three years preceding the time for making the assessment, or so many of them as they shall be able to ascertain the rent of, and shall make an assessment on the actual rent on such of the said houses and premises therewith occupied, which shall appear to them to have been so let at the just and full value thereof, and shall afterwards proceed to assess the several other houses with the premises aforesaid occupied therewith, in sums respectively bearing the same proportion, as far as the same can be computed, to the amount of such first assessment, as the sums charged on the said poor-rate on such other premises respectively bear to the sum charged in the said poor-rate on the said house and premises so first assessed: provided always, that the aforesaid rule shall extend only to such houses and premises chargeable under this act as shall be rated in such poor-rate, distinctly and unmixed with other property not chargeable to the duties hereby granted."

"Eleventh.—In case any house, with the premises aforesaid therewith occupied, shall not be rated in such poor-rate, or shall be rated therein together with other property not chargeable to the duties hereby granted, or there shall be no poor-rate in the parish or place where such house is situate, and in every case where the rules before mentioned are not applicable, the said assessors shall make their assessment from the best information they can obtain of the annual value thereof, which, in all cases, shall be the actual amount of the rent at which the said houses and premises aforesaid respectively are let, or, if not let, the rent which they respectively are worth to be let by the year." If not rated.

"Twelfth.—In case any house, with the premises aforesaid, shall, on occasion of the assessor or assessors having pursued the proportions observed in the poor-rate on which such assessment was made, have been assessed at a sum exceeding the just rate on the annual value thereof, it shall be lawful for the commissioners to abate and deduct from such assessment so much as in their judgment will reduce the same to a just rate on such annual value, but in no case to a less annual value than the same stands rated at in the poor-rate." Abatement of rate.

"Thirteenth.—In case any house, with the premises aforesaid, shall, on occasion of the assessor or assessors having pursued the proportions observed in such poor-rate, have been assessed at a sum less than the actual rent at which the same shall be let, or, if not let, at less than the rent at which the same might be let, it shall be lawful for the commissioners to enlarge and increase such assessment to such sum as a like rent would amount unto." Increase of rate.

"Fourteenth.—Where any dwelling-house shall be divided into different tenements, being distinct properties, every such tenement shall be subject to the same duties as if the same was an entire house, which duty shall be paid by the occupiers thereof respectively." Distinct tenements. (See VI.)

"EXEMPTIONS.

"Case I.—Any house belonging to his majesty, or any of the royal family; and every public office for which the duties heretofore payable have been paid by his majesty, or out of the public revenue." Royal family. Public offices.

"Case II.—Every dwelling-house, being a farm-house, occupied by a tenant, and *bonâ fide* used for the purposes of husbandry only." Farm-houses.

"Case III.—Every dwelling-house, being a farm-house, occupied by the owner thereof, and *bonâ fide* used for the purposes of husbandry only, which, together with the household and other offices aforesaid, shall be valued under this act at 10*l.* per annum, or any less sum." Farm-house of owner.

"Case IV.—Any hospital, charity-school, or house provided for the reception or relief of poor persons." Hospitals, &c.

"Case V.—Every house whereof the keeping is or shall be committed or left to the care or charge of any person or servant, who doth not pay rates to the church and poor, and who resides therein for the purpose only of taking care thereof; provided that an assessment shall be duly made in every such case, and the fact be truly returned in the manner directed by this act in other cases of exemption from the said duties, and the exemption be allowed by the commissioners for executing this act." Houses in charge of servants.

The 57 Geo. III. c. 25, s. 1, after reciting the 48 Geo. III. c. 55, Schedule (B.), &c., enacts, "that from and after the fifth day of April, 1817, on Tenements which have been occu-

3. *Of the Assessed Taxes themselves.*

used as dwelling-houses shall not be charged to duties under recited act, when employed solely for the purposes of trade, or as warehouses, shops, &c.

Exemption by 57 Geo. 3, c. 25, to persons in trade, from house and window duties;

extended to persons using houses under like circumstances as offices or counting-houses in their professions or other callings.

Exemptions not to be extended to chambers in inns of court or colleges in universities.

But such tenements may be brought into assessment.

SCHEDULE (B.), INHABITED HOUSES—(*Continued.*)

due proof made in the manner herein directed, to the satisfaction of the respective commissioners acting in the execution of the said recited act, that any person or any number of persons in partnership together respectively occupy a tenement or building, or part of a tenement or building, which shall have previously been occupied for the purpose of residence wholly, as a house for the purposes of trade only, or as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such trade, such person or each of such persons in partnership respectively residing in a separate and distinct dwelling-house, or part of a dwelling-house, charged to the duties under the said act, it shall be lawful for the said commissioners, according to the provisions of this act, to discharge the assessment made for that year in respect of such tenement or building which shall be so used for the purposes of trade, or so employed as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house; any thing in the said act to the contrary notwithstanding."

The 5 Geo. IV. c. 44, s. 4, reciting that, by the 57 Geo. III. c. 25, provision is made for granting exemptions to persons in trade from the duties on houses, windows, and lights, and on inhabited houses, in respect of houses, tenements, or buildings, or parts of tenements or buildings, used solely by such persons for the purposes of trade, such persons respectively residing in a separate and distinct dwelling-house, or part of a dwelling-house, charged to the said duties, as in the said act described; and whereas it is expedient to extend the said exemptions to the cases herein mentioned: enacts, "that upon all assessments to be made for any year commencing from and after the fifth day of April, 1824, the provisions in the said acts contained, for granting exemptions from the said duties to persons in trade, in respect of houses, tenements, or buildings, in the said act described, shall and may be extended and applied by the respective commissioners and officers acting in the execution of the said act and this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or part of a tenement or building, in the said act described, which shall be used by such person or persons as offices or counting-houses, for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person, or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house charged to the said duties; provided, nevertheless, that the exemption herein authorized shall not extend to any chamber or apartment in any of the inns of court or of Chancery, or to any college or hall in either of the Universities of Oxford or Cambridge, now chargeable with any of the said duties; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, as are allowed by the said act to persons in trade; and all and every the provisions in the said act contained shall be observed, followed, and practised, by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents as if such provisions formed part of the said act passed in the fifty-seventh year aforesaid, any thing herein contained to the contrary notwithstanding."

The 57 Geo. III. c. 25, s. 2, provides, "that all such tenements or buildings, whether employed wholly for the purposes of trade or as warehouses for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, may be brought into assessment as dwelling-

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

3. *Of the Assessed Taxes themselves.*

houses in the manner directed by the said act; and every person intending to be relieved from the assessment made in respect of his or her tenement or building used for the purposes of trade, or as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, by virtue of this act, shall in such case give notice thereof to the assessor or surveyor of or for the parish or place where such last-mentioned tenement or building shall be situate, and at the same time deliver a declaration in writing, stating the parish or place where the dwelling-house or dwelling-houses, or part of a dwelling-house used as a residence of him, her, or them, or his, her, or their family or families, are respectively situate; and every assessor or surveyor to whom such notice and declaration shall be delivered, and every surveyor of the district acting for such parish or place, whether he shall have received such notice and declaration or not, who shall have information of such claim being made or to be made, shall, upon request, from time to time and at all times in the day-time, be admitted to inspect and survey the tenement or building described to be so employed, as well internally as externally, and shall inquire and examine into the uses and purposes to which the same is or has been employed; and if, after any such claim made, or before or after allowance thereof, it shall be discovered that the same tenement or building hath been employed for any other use than for the purposes of trade, or as a warehouse for lodging goods, wares, or merchandize, or as a shop or counting-house, or that any person doth inhabit or dwell therein, except as aforesaid, then on due proof thereof, before the said commissioners, they shall and are hereby required to assess and charge the said tenement or building as a dwelling-house to the duties granted by the said act, notwithstanding such claim, or any thing hereinbefore contained to the contrary: provided always, that nothing hereinbefore contained shall be construed to impeach or affect any exemption from the said duties expressly contained in the said recited act."

Persons claiming relief to give notice to assessor, &c.

Tenements to be inspected by assessor, &c.

If such tenement used for any other purpose, then commissioners to assess accordingly.

Sect. 4. "That the occupier of any mill or place of manufacture or warehouse, not being part or parcel of any dwelling-house, nor attached or adjoining to any dwelling-house, nor having any internal communication therewith, may, by the licence in writing of the commissioners of the district, signed by them, or any three or more of them assembled at any meeting, after due notice given by the occupier of such mill or place of manufacture, appoint any one of his or her servants named in such licence to watch and guard the said mill, or place of manufacture or warehouse, in the night-time, and that the abiding of such licensed servant therein, for the purpose of watching and guarding the same, shall not render the occupier thereof liable to any of the duties granted by the said recited act."

Mills or places of manufacture, &c., not attached to a dwelling-house not liable to duty, though a servant licensed to guard the same abide therein.

The 3 & 4 Wil. IV. c. 39, s. 1, 2, and 3, reduced the duties on inhabited dwelling-houses; and by 4 Wil. IV. c. 19, the above duties repealed after 5th April, 1834.

Enactment in 43 Geo. III. c. 161, respecting the Assessment and Exemptions of poor Persons from Assessment, for the Duties in the two preceding Schedules.

See the 43 Geo. III. c. 161, s. 10 to 13 inclusive, *ante*, 995 to 997.

Sect. 17. "And where any house, cottage, or tenement, or any windows therein, or any hospital, charity-school, poor-house, or licensed chapel, ought to be exempted from the said duties by virtue of any of the rules in the schedules (A.) and (B.), the occupier or occupiers, and the persons conducting or managing such hospital, &c., shall give notice thereof to the assessor, which," &c. See rest of sect., *ante*, 999.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (C.), ON MALE SERVANTS (a).

[48 Geo. III. c. 55; 52 Geo. III. c. 93; 4 Geo. IV. c. 11; and 6 Geo. IV. c. 7; 1 Wil. IV. c. 35; 2 & 3 Wil. IV. c. 113; 3 & 4 Wil. IV. c. 39; 4 & 5 Wil. IV. c. 73; 5 & 6 Wil. IV. c. 64.]

Duties payable annually for MALE SERVANTS.

No. 1.

N.B. These duties were reduced to a moiety by 4 Geo. 4, c. 11.

Extra duties payable by bachelors (b).

NUMBER OF SERVANTS.	Duty for each Servant under 48 Geo. 3, c. 55.	Additional Duty under 52 Geo. 3, c. 93.	Moiety now payable under 4 Geo. 4, c. 11 (a).
	£ s. d.	£ s. d.	£ s. d.
For 1 such Servant, <i>each</i>	2 4 0	0 4 0	1 4 0
2 do. do.	2 16 0	0 6 0	1 11 0
3 do. do.	3 7 0	0 9 0	1 18 0
4 do. do.	3 18 0	0 9 0	2 3 6
5 do. do.	4 9 0	0 9 0	2 9 0
6 do. do.	4 14 0	0 9 0	2 11 6
7 do. do.	4 16 0	0 9 0	2 12 6
8 do. do.	5 3 0	0 9 0	2 16 0
9 do. do.	5 12 0	0 10 0	3 1 0
10 do. do.	6 3 0	0 10 0	3 6 6
11 do. and upwards (<i>each</i> servant)	7 1 0	0 12 0	3 16 6
For <i>every</i> such servant retained or employed by any male person, never having been married, over and above the above-mentioned duties, the further sum of	1 14 0	0 6 0	1 0 0

(a) The 4 Geo. IV. c. 11, s. 2, takes off a moiety of the prior duties, ante, p. 1025.

“RULES, in 52 Geo. III. c. 93, Schedule (C.), No. 1, for Charging the said Duties and the additional Duties (c).

To what servants extended.

“I.—The said duties to be paid by the master or mistress of such servants respectively, and to extend to and be payable for every male servant retained or employed in any of the following capacities: that is to say, maître d'hôtel, house steward, master of the horse, groom of the chamber, valet de chambre, butler, under-butler, clerk of the kitchen, confectioner, cook, house porter, footman, running footman, coachman, groom, postillion, stable boy, or helper in the stables (d) of the

(a) The 4 Geo. IV. c. 11, s. 2, ante, p. 1025, takes off half the duty before payable. The 4 & 5 Wil. IV. c. 73, s. 3, post, 1055, exempts the payment of duties for male servants, under eighteen years of age, after the 6th of April, 1834; and s. 11 provides how exemption to be claimed.

(b) The 4 & 5 Wil. IV. c. 73, s. 4, exempts Roman Catholic clergymen from additional duties payable in respect of bachelor's servants, post, 1055.

(c) The above schedule of rules in 52 Geo. III. c. 93, renders it unnecessary to print the schedule of rules in 48 Geo. III. c. 55.

(d) But by stat. 59 Geo. III. c. 118, s. 2, it is enacted, that the duties imposed

by the several acts for charging assessed taxes in Great Britain for every male person employed by any person in the capacity of a groom, stable-boy, or helper in the stables, shall cease and determine from and after the passing of this act, upon every assessment made or to be made after the 5th day of April, 1819, in respect of every person, being the son of the employer or employers, or one of them, occasionally resident with his parent or parents, and so employed by him, her, or them, during such occasional residence only; (see stat. 11 Geo. IV. & 1 Wil. IV. c. 35, s. 3, post), and in respect of every male person so employed, under the age of fifteen years, and wholly maintained and lodged in the house of his employer or

SCHEDULE (C.), SERVANTS—(Continued.)

3. Of the Assessed Taxes themselves.

master or mistress, gardener, park-keeper, game-keeper, huntsman, whipper-in, or by whatever name or names male servants really acting in any of the said capacities shall be called, or whether such male servants shall have been retained or employed in one or more of the said capacities (except where other duties are imposed by this act on male persons occasionally employed in one or more of the said capacities), and to every such servant let to hire with any carriage or horses for one year, or any longer period, and shall be charged upon the greatest number of such servants which the same person shall have kept at one time in the course of the preceding year, in any of the capacities before mentioned." 52 Geo. III. c. 93, and Schedule (C.)

"II.—The said duties shall extend to all servants in any of the capacities before mentioned, employed in taverns, coffee-houses, inns, alehouses, or any other houses licensed to sell wine, ale, or other liquors by retail, and in eating or victualling houses, and in hotels or lodging-houses, of whatever description, although not licensed, except hostlers and helpers in the stables of such licensed persons, and drivers employed by them to drive their carriages with horses let out to hire, and except waiters." 52 Geo. III. c. 93 (b). Servants in taverns (a).

"III.—The said duties on gardeners shall extend to every gardener who shall have contracted for the keeping of any garden or gardens wherein the constant labour of a person shall be necessary, or where a person shall have been constantly employed therein, to be paid by the person or persons for whose use and in whose garden such gardener or persons shall have been employed, except as hereinafter mentioned." Gardeners.

"IV.—The said duties shall extend to all apprentices retained or employed in any of the capacities aforesaid, save and except such apprentices as shall have been imposed upon any master or mistress under and by virtue of the powers given to magistrates and parish officers by any act or acts of parliament, so as the number of such apprentices for whom this exemption shall be claimed by the same person shall not exceed two; being generally employed in the affairs of husbandry or trade, and occasionally only in any of the capacities herein enumerated, and not wearing livery." Apprentices.

"V.—The said duties on gamekeepers shall extend to every person retained or employed to kill or preserve game for the use of any other person or persons, whether lawfully appointed to kill or preserve game or not, to be paid by the person or persons retaining or employing such persons respectively, for the uses aforesaid; except gamekeepers, being the servants of other qualified persons duly returned by and charged to the said duties as servants of such other persons." Gamekeepers.

"VI.—The said duties shall extend to every person who shall be employed in the capacity of a coachman, postillion, groom, or helper in the stables, although such person shall have been retained for the purposes of husbandry, or any manufacture or trade, where the master or mistress of such person shall be chargeable with duty for any carriage (other than a taxed cart), or for two or more horses chargeable with the duty on horses kept for the purpose of riding or drawing carriages, as herein mentioned." Coachmen, &c.

"VII.—The said duties shall extend to every person who shall be employed as a groom, stable-boy, or helper in the stables of the master or mistress, to take care of any horse, mare, or gelding, the property of such master or mistress, kept for the purpose of racing or running for any plate, prize, sum of money, or other thing, or in training for any of the said purposes." Grooms, &c.

By the 59 Geo. III. c. 118, s. 5, an under-gamekeeper is not assessed as an additional servant, but at 10s. per annum, *ante*, 1024.

EXEMPTION provided by 1 Wil. 4, c. 35, s. 3.

This section enacts, that after the fifth day of April, 1830, exemptions shall be allowed from the duties in respect of male servants and on all per-

employers, and in respect of every male person so employed, being of the age of fifteen years or upwards, and bound an apprentice to his employer or employers, or assigned to him, her, or them, until such apprentice shall arrive at the age of twenty-one years or upwards, and wholly maintained and lodged in the house of his employer or employers: provided always, that the cause of every such exemption shall be truly returned, and stated in the manner required by the acts in force at the

time of passing this act. (See *infra*; and see also 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1053.)

(a) See 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1053.

(b) This exception is, by 1 & 2 Wil. IV. c. 7, extended to stage-coach proprietors for hostlers and helpers in stables not belonging to licensed inns or public houses. See also 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1053.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (C.), SERVANTS—(Continued.)

sons respectively described in Schedule (C.), of the said acts, No. 1 and No. 3, in the cases herein mentioned, *videlicet*, in respect of any male servant or male person who shall be the son of the employer, and who shall be under the age of 21. See, *post*, 1057.

11 Geo. 4, & 1 Wil. 4, c. 35.
Sons of employers under 21.

“By 11 Geo. IV. & 1 Wil. IV. c. 35, s. 3, exemptions shall be allowed from the duties in respect of male servants and male persons respectively described in Schedule (C.), No. 1 and No. 3 in the following cases; *viz.* in respect of any male servant or male person who shall be the son of the employer, and shall be under the age of 21 years.”

2 & 3 Wil. 4, c. 113.
Relief for postmasters, &c., who by employing certain servants become chargeable with the progressive duties payable under schedule (C.), No. 1, of 52 Geo. 3, c. 93.

By 2 & 3 Wil. IV. c. 113, s. 4, it is enacted, “That from and after the said 5th day of April, 1832, where any livery stable-keeper, horse-dealer, postmaster, or other person licensed by the commissioners of stamps, or any person under their authority, to let post-horses or carriages for hire or profit, shall, by reason of their respectively retaining or employing any servant or servants in the capacities of groom, stable-boy, or helper in the stables, solely and *bonâ fide* in their respective trades or businesses, become chargeable with the progressive duties on such male servants, payable under Schedule (C.), No. 1, of an act passed in the fifty-second year of the reign of his said late majesty King George the Third, intituled ‘An Act for granting to his Majesty certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes,’ such persons respectively shall in lieu of the said duties be assessed and charged under the said Schedule (C.), No. 1, and rules thereof, with no more than the duty of 1*l.* 5*s.* for each such male servant so employed, to all intent as if such servants were chargeable under Schedule (C.), No. 4, of the said act.”

No. 2. (a).

A SCHEDULE of the Duties payable annually for MALE SERVANTS and other Persons retained or employed in the several Capacities herein mentioned (a).

Under-gardeners.

For every <i>under-gardener</i> or person employed to work in any garden, under any person chargeable to the duties mentioned in Schedule (C.), No. 1; for every gardener employed in any garden wherein the constant labour of a person shall not be necessary, and for every gardener who shall have contracted for the keeping of any such garden, wherein the constant labour of a person shall not be necessary, the sum of	Moiety of Aggregate Duty.
£0 4 0	£0 10 0

By whom paid.

In addition to the duty of 16*s.* granted by the acts passed in the 48th and 50th years of the reign of his present majesty.
To be paid by each person in whose garden such person shall be employed, and charged upon the greatest number of such servants which the same person shall have at one time employed in the same capacity, in the course of the preceding year.

Day-labourers.

“Exemptions from the Duties as set forth in Schedule (C.), No. 1 and 2.

“Any person employed by the day or week to work as a day-labourer, at the usual rate of wages for day-labourers in agriculture, in any garden belonging to a dwelling-house, being a farm-house, and exempted as such from the duties mentioned in Schedule (B.) of the act of 48 Geo. III. c. 55, or in any garden belonging to a dwelling-house not chargeable to the duties mentioned in the said schedule, such garden not requiring the constant labour of one person therein.”

(a) These were enacted by the 48 Geo. III. c. 55, 50 Geo. III., and 52 Geo. III. c. 93; but were afterwards repealed by the 4 Geo. IV. c. 11, s. 1, *ante*, 1024; and see 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1058.

SCHEDULE (C.), SERVANTS—(Continued.)

3. Of the Assessed Taxes themselves.

No. 3 (a).

A SCHEDULE of the Duties payable annually for every MALE PERSON retained or employed in the several Capacities herein mentioned, and not chargeable to the Duties in Schedule (C.), No. 1.

Now repealed by
3 & 4 Wil. 4, c. 39,
s. 4, *infra*.

For every male person employed in the capacity of, or as a rider or traveller, where the same employer shall keep or employ one such male person only, the sum of . . . £0 12 0	Moiety of Aggregate Duty.	£1 10 0	Travellers (a).
In addition to the duty of 2 <i>l</i> . 8 <i>s</i> . granted by the act passed in the 48th year of the reign of his present majesty . . .			
And where the same employer shall keep or employ more than one such male person, for <i>each</i> the sum of . . . 1 10 0	2 10 0		
In addition to the duty of 3 <i>l</i> . 10 <i>s</i> . granted by the said act . . .			
For every male person employed in the capacity of, or as clerk, book-keeper, or office-keeper, where the same employer shall keep or employ one such male person only, the sum of 0 16 0	1 0 0		Clerks, &c.
In addition to the duty of 1 <i>l</i> . 4 <i>s</i> . granted by the said act . . .			
And where the same employer shall keep or employ more than one such male person, for each the sum of . . . 0 12 0	1 10 0		
In addition to the duty of 2 <i>l</i> . 8 <i>s</i> . granted by the said act . . .			
For every male person employed in the capacity of, or as a steward, bailiff, overseer, or manager, or clerk under a steward, bailiff, overseer, or manager, the sum of . . . 2 0 0	1 0 0		Stewards, &c.
In addition to the duty of 1 <i>l</i> . 4 <i>s</i> . granted by the said act . . .			
For every male person employed by any person in trade as a shopman, for the purpose of exposing to sale, or selling goods, wares, or merchandize, in such shop or warehouse, whether by wholesale or retail, and every male person employed as a warehouseman, porter, or cellarman in such shop or warehouse, the sum of 0 16 0	1 0 0		Shopmen.
In addition to the duty of 1 <i>l</i> . 4 <i>s</i> . granted by the said act . . .			
And for every male person so employed, where the duty granted by the said act shall not be chargeable, the annual sum of . . .	1 0 0		
In addition to the duty of 2 <i>l</i> . 5 <i>s</i> . granted by the said act . . .			
For every male person employed as a waiter to wait on guests in any tavern, coffee-house, inn, ale-house, eating or victualling house, or in any hotel or lodging-house, except occasional waiters, the sum of . . . 0 15 0	1 10 0		Waiters (a).
In addition to the duty of 2 <i>l</i> . 5 <i>s</i> . granted by the said act . . .			
And for every male person so employed, where the duty granted by the said act shall not be chargeable, the sum of . . .	1 10 0		
In addition to the duty of 2 <i>l</i> . 5 <i>s</i> . granted by the said act . . .			
And for every male person so employed as an occasional waiter therein for the period of six calendar months in any year, the sum of . . .	1 0 0		Occasional waiters (a).
In addition to the duty of 2 <i>l</i> . 5 <i>s</i> . granted by the said act . . .			
And if so employed for a lesser period than six calendar months in any year, the sum of . . .	0 10 0		
In addition to the duty of 2 <i>l</i> . 5 <i>s</i> . granted by the said act . . .			
And for every male person, not being a servant, employed as an occasional waiter in any private house, not less than six times within the year, the sum of . . .	0 10 0		
In addition to the duty of 2 <i>l</i> . 5 <i>s</i> . granted by the said act . . .			
For every male person employed by any stable-keeper, for or in expectation of profit, to take care of any horse, mare, or gelding, kept for the purpose of racing or running for any plate, prize, sum of money, or other thing, or any horse, mare, or gelding in training for any of the said purposes, except servants chargeable as grooms or helpers in stables by Schedule (C.), No. 1, the sum of 0 16 0	1 0 0		Stablekeeper's men (a).
In addition to the duty of 1 <i>l</i> . 4 <i>s</i> . granted by the said act . . .			

(a) See what duties in this schedule 1028; and now see repealing clause of were repealed by 4 Geo. IV. c. 11, *ante*, 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1053, 1024; and see 6 Geo. IV. c. 7, *ante*, by which most of these duties are repealed.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (C.), SERVANTS—(Continued.)

		Moiety of Aggregate Duty.
Servants in husbandry (a).	And for every male person so employed, where the duty granted by the said act shall not be chargeable, the sum of . . .	£1 0 0
	For every male person retained for the purposes of husbandry, manufacture, or trade, wherein the employer shall seek a livelihood, and at any time employed in any domestic employment, in any of the capacities enumerated in Schedule (C.), No. 1, and where the employer shall not be chargeable to the duties in the said schedule, or to any other of the duties in this schedule, in respect of such male person, the sum of . . . £0 4 0	0 5 0
Servants in husbandry employed as grooms (a).	In addition to the duty of 6s. granted by the said act	
	And for every male person so retained and employed, where the duty granted by the said act shall not be chargeable, the sum of . . .	0 5 0
Servants.	For every male person retained for the purposes of husbandry, manufacture, or trade, and at any time employed in the capacity of a groom, stable-boy, or helper in the stable, where the master or mistress shall be chargeable for one horse to the duty contained in Schedule (E.), No. 1, or to the duty on a taxed cart, and not on any other carriage chargeable with duty by this act, and in respect of which such male person shall not be chargeable to the duties in Schedule (C.), No. 1, or to any other of the duties in this schedule, the sum of . . . 0 4 0	0 5 0
	In addition to the duty of 6s. granted by the said act	
Servants.	And for every male person so retained and employed where the duty granted by the said act shall not be chargeable, the sum of . . .	0 5 0
	For every male person employed in any of the capacities enumerated in Schedule (C.) No. 1, and not being a servant to his employer or employers, where such employer or employers shall be chargeable to any of the duties contained in Schedule (C.) No. 1; or for any carriage to the duties contained in Schedule (D.) No. 1 or No. 2, or for more than one horse to the duties contained in Schedule (E.) No. 1, the sum of . . .	1 4 0
	And where such employer or employers shall not be so chargeable to the said last-mentioned duties, the sum of . . .	0 10 0

By whom paid.

"The said duties to be paid by the employer or employers of such male persons respectively, and to extend to every body politic or corporate, whether aggregate or sole, and to every society, fraternity, or partnership, although not corporate, employing such male persons, and to every trade, manufacture, or concern whereby the employer shall seek a profit or advantage."

"EXEMPTIONS to Schedule (C.), No. 3.

Apprentices exempted.

"Any apprentice bound for the term of seven years, during the term of his apprenticeship and service with his original master or his assignee of the whole unexpired term, where no premium or other consideration or value shall have been taken or contracted for with such apprentice."

The 59 Geo. III. c. 118, contains certain exemptions from duties on persons employed as *shopmen*, grooms, stable-boys, or helpers in *stables*, *ante*, p. 1023; and 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1053, repeals these duties.

By the 59 Geo. III. c. 118, s. 3, more than four persons employed as travellers on foot for sale of goods were exempt, *ante*, p. 1024; but now see 3 & 4 Wil. IV. c. 39, s. 4, *post*, 1053, repealing these duties.

By the 4 Geo. IV. c. 11, s. 5, it is enacted, that the former exemptions to shopmen under fifteen years shall be extended to shopmen under eighteen years of age, *ante*, p. 789.

The 5 Geo. IV. c. 44, s. 6, removes doubts in the employment of *porters*, and of persons acting *under clerks and managers in mines or adventures*, and enacts, "that for and in respect of any assessment to be made for any year

(a) See the repealing clause in 4 Geo. IV. c. 11, s. 1, *ante*, 1024.

SCHEDULE (C.), SERVANTS—(Continued.)

3. *Of the Assessed Taxes themselves.*

commencing from and after the fifth day of April, 1824, any male person hired by the employer or employers in the said acts described, by the year or by the week, or otherwise, shall not be deemed and taken to be a porter chargeable with the said duties, for or by reason of his employment in the loading, unloading, stowage, or removal of goods, wares, or merchandize, from, to, or upon any horse, cart, waggon, or other carriage, in the receipt or delivery of such goods, wares, or merchandize at the shop, warehouse, or place of deposit, unless such person shall also be employed in the drawing or taking of samples of goods, wares, or merchandize exhibited for the purposes of sale at such shop or warehouse, or elsewhere; nor shall any person wholly employed in any mine, adventure, or concern, under the superintendence and authority of one or more manager or managers, or one or more clerk or clerks, in such mine, adventure, or concern (where the person or persons liable to the said duties by the said acts shall be assessed for the duty for one overseer or manager at the least, and also for one clerk at the least), be deemed and taken to be an overseer or manager, or a clerk under an overseer or manager chargeable with duty, by reason of the employment of any such person under such manager or clerk in the overlooking and checking of labourers in the performance of the work and labour allotted to them in any such mine, adventure, or concern, and in accounting for the same to any such manager or clerk; anything in the said acts to the contrary notwithstanding."

See further exemptions by 1 Wil. IV. c. 35, s. 3, *post*, 1055; 4 & 5 Wil. IV. c. 73, s. 3 and 4, *post*, 1055.

By 3 & 4 Wil. IV. c. 39, s. 4, it is enacted, "That the several rates and duties granted by the said act passed in the forty-eighth year of the reign of his said late majesty king George the Third, and also an act passed in the fifty-second year of the reign last aforesaid, intituled, 'An Act for granting to his Majesty certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes,' and also an act passed in the second and third year of the reign of his present majesty King William the Fourth, intituled, 'An Act to continue until the 5th day of April, 1834, Compositions for the Assessed Taxes, and to grant relief in certain Cases,' and now payable for male persons employed in the capacities of riders or travellers, and of clerks, book-keepers, or office-keepers, and of stewards, bailiffs, overseers, or managers, or clerks, under-stewards, bailiffs, overseers or managers, and of shopmen, warehousemen, porters, or cellarmen, or of grooms, stable-boys, or helpers in the stables, solely and *bonâ fide* employed in their respective trades or businesses by any livery-stable keeper, horsedealer, post-master, or any other person licensed by the commissioners of stamps, or by any person under their authority, to let post-horses or carriages for hire or profit, as in the said acts respectively described, shall severally cease and determine: provided also, that where any licensed victualler in the said acts described shall employ one male person only *bonâ fide* and generally to carry out and deliver any beer, ale, or other liquors to customers, such person shall be considered a porter hereby exempt from duty, although he may be occasionally employed to wait on guests."

3 & 4 Wil. 4, c. 39. Duties on travellers, clerks, book-keepers, stewards, bailiffs, overseers, managers, shopmen, warehousemen, porters, or cellar-men, and grooms, &c., of livery-stable keepers, post-masters, &c., occasional waiters, &c., to cease. 48 Geo. 3, c. 55. 52 Geo. 3, c. 93. 2 & 3 Wil. 4, c. 113.

No. 4.

A SCHEDULE of the Duties payable on SERVANTS let to Hire.

For every coachman, groom, postillion, or helper, kept for the purpose of being let to hire for any period of time less than one year, and in such manner that the Stamp-Office duty payable by law on horses let to hire shall not be payable by any post-master, inn-keeper, or other person, duly licensed to let post-horses by the commissioners for managing the duties on stamped vellum, parchment, and paper, or by any coachmaker or maker of such carriages, or other person, the annual sum of . 0 6 0 In addition to the duty of 2<i>l.</i> 4<i>s.</i> granted by the said act .	Moiety of Aggregate Duty. £1 5 0	N.B. These duties reduced to a moiety by 4 Geo. 4, c. 11. Coachmen, &c., let to hire.
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3. Of the Assessed Taxes themselves.

SCHEDULE (C.), SERVANTS—(Continued.)

		Moiety of Aggregate Duty.
Stage-coachmen.	And for every coachman kept for the purpose of driving any public stage-coach or carriage, for the purpose of conveying passengers for hire to and from different places, and for every person employed as a guard to such stage-coach or carriage, the annual sum of .	£1 5 0
	The said last-mentioned duties to be paid by the employer or employers of such persons, respectively.	

By whom paid.

The said duties to be paid by the person or persons keeping such public stage-coaches or carriages, or letting to hire such coachmen, grooms, postillions, or helpers; provided, that if the person or persons hiring any such coachman, groom, postillion, or helper, shall not make a return thereof according to the directions of the said acts in force, as aforesaid, then and in every such case the progressive duty made payable by the said act of 48 Geo. III. c. 55, and this act, as set forth in the respective schedules of the said acts, marked (C.), No. 1, shall be chargeable in respect of every such servant on the person or persons hiring such servant, and making such default as aforesaid, according to the number of servants employed by him, her, or them, in the manner directed by the said act.

*EXEMPTIONS from the last-mentioned Duties, as set forth in
Schedule (C.), No. 1 and 2.*

Servants in husbandry.

"I.—The said duties not to be payable by any person who shall have retained or employed *bonâ fide* any male servant solely for the purposes of husbandry or manufacture, or of any trade or calling by which the master or mistress of such servant shall earn a livelihood or profit, and who hath not at any time or occasion, or in any manner, or for any purpose, been employed in any of the capacities enumerated in Schedules (C.), No. 1 and 2, nor in any of the capacities enumerated in Schedule (C.), No. 3 and 4, whereon any duty is specifically made payable."

College, &c., servants.

"II.—The said duties not to be payable by any college or hall within either of the universities of Oxford or Cambridge, or the several colleges of Westminster, Eton, or Winchester, for any butler, manciple, cook, gardener, or porter; nor by any of the royal family, for any servant acting in any of the capacities aforesaid."

Royal family's servants.

Hospital servants.

"III.—The said duties not to be payable by any of the royal hospitals of Christ, St. Bartholomew, Bridewell, Bethlem, St. Thomas, in the city of London, and borough of Southwark, or Guy's, or the Foundling Hospital."

Officers' servants.

"IV.—The said duties not to be payable by any officer hereinafter described, such officer retaining or employing as a servant one male person only; that is to say, by any officer serving in any regiment of horse or dragoons under the rank, or not receiving the pay of a field-officer for one servant, being actually a soldier in the regiment, troop, or squadron, to which such officer shall belong:

"Nor by any officer serving in any regiment of artillery, infantry, royal marines, royal garrison battalions, or corps of engineers, for one servant, being actually a soldier in the regiment or company to which such officer shall belong:

"Nor by any officer in his majesty's navy, under the rank of a master and commander, in actual employ, for one servant borne upon the books of the ship to which such officer shall belong:

"Nor by any officer on half-pay from his majesty's navy, army, or marines, who shall have been disabled by loss of a limb or wound received in his majesty's service, for one male-servant retained by him:

Servants to supply those under military training.

"V.—The said duties not to be payable for any persons retained or employed in the above capacities, in the room of others who may be called out under any act which has been passed, or which shall be passed, for training and exercising a military force within these kingdoms, during the time of such training and exercising."

*Provisions in the 43 Geo. III. c. 161, relative to the Assessment
of Servants, according to the Duties in the preceding Schedules.*

See the enactments on the 43 Geo. III. c. 161, ss. 27 and 39, *ante*, p. 1002.

With respect to livery-stable keepers, &c., letting servants to hire, see the regulations thereon, *post*, at the conclusion of Schedule (F.)

FURTHER EXEMPTIONS.

3. *Of the Assessed Taxes themselves.*

By 5 & 6 Wil. IV. c. 64, s. 17, the exemption granted to certain officers by 52 Geo. III. c. 93, Schedule (C.), for one male servant, being a soldier, extended to such number of servants, being soldiers, as may be allowed to each officer by the regulations of the service.

By stat. 6 Geo. IV. c. 7, no licensed victualler shall be liable to duty for a male servant, by reason of the employment of a person under fifteen to draw, carry out, and retail any ale, beer, or liquors.

6 Geo. 4, c. 7.
Servant of licensed victualler under 15.

By stat. 4 & 5 Wil. IV. c. 73, s. 3, it is enacted, "That the duties granted by the stat. 48 Geo. III. c. 55, and the stat. 52 Geo. III. c. 93, for or in respect of male servants or persons retained or employed in the several capacities mentioned in schedule (C.) Nos. 1, 3, and 4, to the said acts respectively annexed, shall cease to be paid or payable for or in respect of any male servant or person retained or employed by any person residing in the parish or place in which such male servant or person shall have a legal settlement; provided such male servant or person shall not have attained the age of eighteen years before the 6th day of April in the year for which any such assessment shall be made; and provided such exemption shall be duly claimed in the manner thereafter directed" (*i. e.* in the manner directed by stat. 43 Geo. III. c. 161, s. 36). (See *ante*, p. 1005.)

4 & 5 Wil. 4, c. 73.
Exemption in respect of male servants under 18 years of age, employed in the parish where their settlement is.

Sect. 4. Reciting that by the said acts "certain further duties over and above the other duties therein mentioned are granted and made payable for every male servant retained or employed in any of the capacities mentioned in schedule (C.), No. 1, to the said acts respectively annexed, by any male person never having been married," enacts, "that the said further or additional duties so granted and made payable as aforesaid by reason or on account of the person retaining or employing any such male servant never having been married, shall cease to be paid or payable for or in respect of any male servant retained or employed by any priest of the Roman Catholic faith who shall have duly taken and subscribed the oaths and declarations required by law; provided such priest shall duly return a list of all such servants retained or employed by him, and shall add the letter B. to the signature of his name to every such list, in like manner as other persons never having been married are required by the laws in force to denote the same by adding the said letter B. to their signatures to such lists as aforesaid, and provided such exemptions shall be duly claimed in the manner thereafter directed" (*i. e.* in the manner directed by stat. 43 Geo. III. c. 161, s. 36.). (See *ante*, p. 1005.)

Roman Catholic clergymen exempted from the additional duties granted in respect of bachelors' servants.

Provisions by Stat. 43 Geo. III. c. 161, relative to the Assessment of Servants, according to the Duties in the preceding Schedules.

By stat. 43 Geo. III. c. 161, s. 26, every person retaining or employing any male servants or other male persons herein described, in the course of the year ending the day next before the respective days appointed for the commencement of the duties in the year 1804, shall, within six weeks thereafter, whether any previous notice for that purpose shall have been delivered or not, cause to be prepared particular lists in writing, signed by such person on his or her behalf, which shall contain the parish or place where such person shall then or usually reside; and one of such lists shall also contain the greatest number and the names of the several male servants, or other male persons retained or employed by them at any one time in the course of the year ending as aforesaid, and the several capacities in which they shall serve. And whenever the person required to return such lists shall be liable to the duty on servants kept by male persons never having been married, he shall denote the same by the letter B. And every such person shall cause such list to be delivered to the assessor of the parish or place where he or she shall reside, at or before the expiration of the time hereby appointed for delivery

43 Geo. 3, c. 161.
Persons liable to duty on servants to return lists thereof.

Such persons to be charged according to such lists for the year

3. Of the Assessed Taxes themselves.

commencing from those days.

Proceedings where persons keep servants having no fixed residence, &c.

SCHEDULE (C.), SERVANTS—(Continued.)

thereof; and every such person shall be charged for the greatest number of servants retained or employed at any one time in the year ending as aforesaid, and shall be assessed and charged by the respective assessors for the year commencing from that day, which assessments shall be made at the rate specified in schedule (C.), and according to the lists which shall or ought to have been returned as aforesaid, subject to the powers of surcharge hereby directed and given.

Sect. 39. If any persons shall keep any male servants at places where they shall have no fixed residence, or shall come to reside in districts after the time for returning the lists before mentioned, not being charged therein, the assessor, surveyor, or inspector of the district shall, in every case within their knowledge, at any time deliver or leave the notices before directed at the house where such person shall be, or such servants shall be kept. And such person, or the person having the charge of such male servants, shall cause such lists (being previously signed by them as aforesaid) to be delivered to such assessor, surveyor, or inspector, within twenty-one days after delivery of such notice; and shall also deliver a declaration where they or the persons to whom such servants do belong have been assessed for that year to the duties hereby imposed, together with their respective places of abode, and the names of such persons, and in case the parties have not been duly and sufficiently assessed, or have delivered lists in other places, or shall not make any return, then they shall be chargeable to the duties hereby made payable, and for which returns ought to be made, either in the parish or place where such last-mentioned notice shall have been delivered, as if such person was actually resident therein, or in the parish or place where such persons shall have their ordinary residence. And if any person, after receiving such notice, shall remove without having delivered such list or declaration, he or she shall forfeit 20*l*.

SCHEDULE (D.)

[Stats. 48 Geo. III. c. 55, and 52 Geo. III. c. 93; 4 Geo. IV. c. 11; 1 Wil. IV. c. 35; 2 & 3 Wil. IV. c. 81; 3 & 4 Wil. IV. c. 39.]

“ A SCHEDULE of the Duties payable on all CARRIAGES of any of the Descriptions herein mentioned.

No. 1.

Carriages with four wheels.	NUMBER OF CARRIAGES.	By the 48 Geo. 3, c. 55.			By the 52 Geo. 3, c. 93.			Moiety Aggregate Duty now payable (a).		
		£	s.	d.	£	s.	d.	£	s.	d.
	For Carriages <i>with Four Wheels</i> .									
	For 1 such carriage, the annual sum of . . .	11	5	0	0	15	0	6	0	0
	2 do. each . . .	12	7	0	0	13	0	6	10	0
	3 do. do. . . .	13	10	0	0	10	0	7	0	0
	4 do. do. . . .	14	0	0	1	0	0	7	10	0
	5 do. do. . . .	14	12	0	1	3	0	7	17	6
	6 do. do. . . .	15	3	0	1	5	0	8	4	0
	7 do. do. . . .	15	14	0	1	6	0	8	10	0
	8 do. do. . . .	16	5	0	1	7	0	8	16	0
	9 do. and upwards	16	16	0	1	7	0	9	1	6
	And for every additional body kept, to be successively used on the same carriage or number of wheels, the further annual sum of . .	5	12	0	0	14	0	3	3	0

(a) By the 4 Geo. IV. c. 11, sect. 2, one moiety of the duty on carriages shall cease, *post*, 1025.

SCHEDULE (D.)—CARRIAGES—(Continued.)

3. Of the Assessed Taxes themselves.

Reduced duties shall not include any fraction of 1*d.*, ante, 1025.

The 58 Geo. III. c. 17, which, instead of the duties payable on carriages with four wheels of less diameter than thirty inches and of a certain description, and not drawn by horses, &c., imposed certain other duties, was repealed by 6 Geo. IV. c. 7, s. 1.

By 11 Geo. IV. & 1 Wil. IV. c. 35, s. 3, after reciting, “and whereas it is also expedient to grant exemptions from the said duties of assessed taxes in particular cases, and to reduce certain of the said duties in respect of the articles hereinafter mentioned;” it is enacted, “that for any year commencing from and after the fifth day of April, 1830, exemptions shall be allowed from the duties in respect of male servants and male persons respectively described in Schedule (C.) of the said acts, No. 1, and No. 3, in the cases herein mentioned; *videlicet*, in respect of any male servant or male person who shall be the son of the employer, and shall be under the age of twenty-one years; and in respect of any carriage in Schedule (D.) of the said acts described with less than four wheels, each of which shall be of less diameter than thirty inches, kept by any person for his or her own use, and not for hire, and which shall be drawn by any poney or mule not exceeding twelve hands in height; and also in respect of one horse, mare, or gelding *bonâ fide* kept and usually employed by any person for the purpose of husbandry on the farm or estate occupied by him or her, although occasionally used for the purpose of riding, where such farm shall be of less value than 200*l.* *per annum*, estimated as in cases of exemptions under Schedule (E.) of the acts now in force; provided that all such respective articles hereby exempted shall be duly returned and the exemptions claimed in the manner directed by the said acts in force relating to the said duties of assessed taxes.”

Duties repealed in respect of son of employers under 21 years; and on carriages with less than four wheels of particular construction, drawn by ponies under 13 hands; and on farmer under 200*l.* (a) a-year for a husbandry horse occasionally rode.

Sect. 4. “That for and in lieu of the duties described in the said Schedule (D.) now in force and chargeable for carriages with four wheels, and for carriages with less than four wheels, and also the duties described in Schedule (E.) of the said acts now in force on horses, mares, geldings, or mules, next hereinafter described, there shall be charged, for any year commencing from and after the said fifth day of April, 1830, the several reduced duties following, and which reduced duties shall be assessed, raised, levied, collected, and accounted for in like manner as the duties now in force; that is to say,

Duties on carriages and horses reduced in certain cases.

For every carriage with four wheels, each being of less diameter than thirty inches, where the same shall be drawn by a pony or ponies, mule or mules, exceeding twelve hands, and neither of them exceeding thirteen hands in height, the annual sum of	£. s. d.	Four-wheel carriages drawn by ponies;
And for every carriage with four wheels, described in the said Schedule (D.) No. 1, drawn by one horse, mare, gelding, or mule, and no more, the annual sum of	3 5 0	
And for every carriage with four wheels, described in the said Schedule (D.) No. 1, or No. 2, used by any common carrier principally and <i>bonâ fide</i> for and in the carriage of goods, wares, or merchandise, by which he or she shall seek a livelihood, where such carriage shall be occasionally only used in the conveyance of passengers for hire, and in such manner that the Stamp Office duty, or any composition for the same, shall not be payable under any licence by the commissioners of stamps, the annual sum of	4 10 0	or drawn by one horse;
And where such carriage last aforesaid shall have less than four wheels, the annual sum of	2 10 0	Carriages used by common carriers in conveyance of goods, and occasionally passengers, where the Stamp-Office duty is not payable;
And for each and every horse, mare, gelding, or mule used by any common carrier in drawing any such last-mentioned carriage respectively, there shall not by reason thereof be charged any other or higher duty than the duty payable by Schedule (F.) of the said acts.”	1 5 0	and horses drawing such carriages.

(a) Extended by 4 & 5 Wil. IV. c. 73, s. 6, to all farms under 500*l.* a-year.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (D.), CARRIAGES—(Continued.)

Sect 5 enacts, that the powers and provisions of former acts shall be executed by commissioners, &c. for the further term.

No. 2. (b.)

Carriages chargeable with four wheels (a).

For carriages <i>with less than four</i> wheels, of the descriptions mentioned in the acts passed in the 48th and 50th years of the reign of his present majesty :			
For every <i>such</i> carriage, except such carriages for or in respect of which other duties are herein imposed, the annual sum of	0	12	0
In addition to the duty of 5 <i>l.</i> 18 <i>s.</i> granted by the said acts of the 48th and 50th years of the reign of his present majesty .	3	5	0
And for every such carriage, where the duty granted by the said acts shall not be chargeable, the annual sum of	3	5	0
And for every such carriage, drawn by <i>two or more</i> horses, mares, geldings, or mules, the annual sum of	0	15	0
In addition to the duty of 8 <i>l.</i> 5 <i>s.</i> granted by the said acts .	4	10	0
And for every additional body kept, to be successively used on the same carriage or wheels, the further annual sum of	0	7	0
In addition to the duty of 2 <i>l.</i> 16 <i>s.</i> granted by the said act .	1	10	0

"*RULES for Charging the said Duties in the Two foregoing Schedules.*

"I. — The said duties to be respectively charged for every coach, berlin, landau, chariot, calash, chaise-marine, chaise, sociable, or caravan, with four wheels or more, and for every calash, chaise-marine, chaise, curricule, chair, or car, with less than four wheels, or any number thereof respectively; and for every other carriage with four wheels, or with less than four wheels, constructed for the like purposes, by whatever name or names the same shall be called or known, kept by any person or persons; and upon all such carriages hired by the year, or any longer period; and upon all such carriages kept to be let out to hire; and upon all such carriages at any time employed to carry passengers for hire (except such carriages for which other duties are hereinafter made payable); and which duties shall be respectively paid by the person or persons keeping such carriages, and shall be chargeable upon the body, or, if more than one, upon the bodies of such carriages respectively, according to the number thereof kept, and not in respect of the wheels thereof, or any other parts of such carriages to which the wheels shall be attached."

Carriages hired.

For carriages <i>hired</i> for any period of time less than one year, or <i>kept to be let to hire</i> , or to <i>carry passengers</i> :			
For every carriage kept for the purpose of being let to hire, <i>without</i> horses to be used therewith, by any coachmaker, or maker of such carriages, where such carriage shall have four wheels, the annual sum of	0	15	0
In addition to the duty of 1 <i>l.</i> 5 <i>s.</i> granted by the said act passed in the 48th year of the reign of his present majesty .	6	0	0
And where such carriage shall have less than four wheels, the like sums mentioned in Schedule (D.) No. 2 of this act.			

(a) By 2 & 3 Wil. IV. c. 82, s. 1, reduced to 1*l.* 10*s.*; and by 3 & 4 Wil. IV. c. 39, s. 5, *post*, 1060, the above section is repealed, and certain carriages therein described are wholly exempted from duty.

(b) See *post*, p. 1060.

(c) Only a moiety of the aggregate duties is now payable as above; 4 Geo. IV. c. 11, s. 2, *ante*, 1025.

SCHEDULE (D.), CARRIAGES.—(Continued.)

3. Of the Assessed Taxes themselves.

	Moiety of [Aggregate Duty(a).]	Chaises hired.
For every carriage kept for the purpose of being let to hire, with horses to be used therewith, by any postmaster, innkeeper, or other person duly licensed to let post-horses, by the commissioners for managing the duties on stamped vellum, parchment, and paper, and whereon the name or names, and place or places of abode, of the person or persons so licensed shall be marked or painted, according to the directions of the acts in that case made and provided, and in such manner that the Stamp Office duty shall be payable by law in respect of the horses let therewith, and shall be duly accounted for by the delivery of a ticket, according to the directions of the said acts, where such carriage shall have four wheels, the annual sum of 1 1 0 In addition to the duty of 9 <i>l.</i> 9 <i>s.</i> granted by the said act of the 48th year of the reign of his present majesty And if such carriage shall have less than four wheels, the respective sums mentioned in Schedule (D.) No. 2, in addition to the duties respectively granted thereon, by the said acts passed in the 48th and 50th years of the reign of his present majesty.	5 5 0	
For every coach, diligence, caravan, or chaise, with four wheels or more, or other carriage with four wheels or more, by whatever name the same shall be called or known, which shall be kept and employed as a <i>public stage coach or carriage</i> , for the purpose of conveying <i>passengers for hire</i> to and from different places, and which shall be duly entered as such with the said commissioners of stamp duties, the like annual sum of 1 1 0 In addition to the duty of 9 <i>l.</i> 9 <i>s.</i> granted by the said act passed in the 48th year of the reign of his present majesty	5 5 0	Stages.

The said last-mentioned duty to be paid by the person or persons keeping the same for the purposes aforesaid.

Provided, if a due return thereof shall not be made by the hirer or hirers according to the directions of the said acts relating to the said present duties, the progressive duty made payable by the said act of the 48th Geo. III. c. 55, and this act, as set forth in the respective schedules of the said acts marked (D.), No. 1, shall be chargeable in respect of every such carriage on the person or persons hiring the same, and making such default as aforesaid, subject to the provisions contained in the said acts concerning the same.

And if such carriage shall have less than four wheels, the respective sums made payable by the said act of the 48th Geo. III., and this act, as set forth in the respective schedules of the said acts marked (D.), No. 2, shall be chargeable and paid by the person or persons hiring the same and making such default, subject to the like provisions as aforesaid.

By the 50 Geo. III. c. 104, s. 1, certain other duties are granted, as in the schedule to the act annexed.

By sect. 2, duties are to be assessed under the regulations of former acts.

By sect. 3, the same commissioners and officers are to execute this act as are appointed under former acts.

By sect. 4, the makers of taxed carts are to return their names, and to keep accounts of carts sold.

By the 4 Geo. IV. c. 11, the makers of taxed carts need not paint owner's name, &c. thereon, before delivery.

By the 50 Geo. III. c. 104, common stage-carts may be used in certain cases.

(a) Only a moiety of the aggregate duties is now payable as above; 4 Geo. IV. c. 11, s. 2, *ante*, 1025.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (D.), CARRIAGES—(Continued.)

By sect. 7, on questions arising how carriages shall have been constructed, or of omission, commissioners to give notice to proprietors to produce the same before them for their adjudging the duty.

3 & 4 Wil. 4, c. 39.
2 & 3 Wil. 4, c. 82,
recited and re-
pealed as to assess-
ments made from
April 1833, and
the duties thereby
payable to cease;
and carriages de-
scribed in numbers
1 and 2 wholly
exempted from
any duty.

By stat. 3 & 4 Wil. IV. c. 39, s. 5, after reciting, "that by an act passed in the last session of parliament, intituled, 'An Act to reduce the Duties now payable in certain cases on Carriages with less than Four Wheels,' the duties of 3*l.* 5*s.*, theretofore payable, were reduced to 1*l.* 10*s.* for every carriage in the said act described: and whereas it is expedient to repeal the said act and the reduced duties thereby payable, and to exempt all such carriages hereinafter described from the payment of any duty; it is enacted, that for and in respect of all assessments to be made for any year commencing from and after the 5th day of April 1833 as aforesaid, the said act shall be and is hereby repealed, and the said reduced duties thereby payable shall cease and determine; and every carriage with less than four wheels heretofore chargeable with either of the said duties of 3*l.* 5*s.* or 1*l.* 10*s.* respectively, built, constructed, and used within the regulations next hereinafter described, shall not be chargeable with any duty payable under any act now in force relating to the duties of assessed taxes; and any exemptions now in force for a horse, mare, gelding, or mule *bonâ fide* kept for the purposes of husbandry, drawing any carriage in the said acts described as a taxed cart or common stage cart, shall be and are hereby extended to carriages exempt from duty by this act, *viz.*

EXEMPTIONS.

No. 1.
Exemption.

1. Every carriage with less than four wheels, kept by any person or persons for his or her own use, and not for hire or profit, and drawn by one horse, mare, gelding, or mule only, and not otherwise, and built and constructed with any materials (except as herein mentioned), and in any form, but without any head or covering, or any lining, fixed or not fixed, and without any spring or springs of iron, steel, or other metallic substance, or of any composition of iron, steel, or other metallic substance, either wholly or in part (other than iron tips, caps, or swivels, each not exceeding nine inches in length, and at the extremity only of each spring of such carriage), and the original price of which carriage, together with the cushion or cushions and any other article or thing used with or belonging to such carriage, shall not have exceeded, or the value whereof shall not at any time exceed, the sum of 21*l.* sterling; provided that every such carriage shall have the christian and surname or names and places of abode, occupation, or calling of the owner or owners marked or painted in one or more straight line or lines on a black ground in white letters or on a white ground in black letters on the back pannel or back part of such carriage, or if there shall be no such back pannel or back part, then upon the right or off side of the side pannel, and if no such side pannel, then upon the right or off side shaft of such carriage, in Roman characters and in words at length, each of such letters being at least one inch in height, and of a proper and proportionate breadth:

No. 2.
Exemption.

2. Every carriage with less than four wheels, *bonâ fide* built and constructed wholly of wood and iron, with any spring or springs (wholly or in part of metal), and without any covering other than a tilted covering, and without any lining, apron, or cushion, and with the seat fixed or suspended by slings or braces, such carriage not being on any occasion let or used by the owner or owners, or any other person or persons, for hire or profit, but kept as a common stage cart, and used truly and without fraud in the affairs of husbandry, or in the carriage of goods, or in the course of trade, although used occasionally for the purpose of riding therein; provided that every such common stage cart shall have the christian and surname or names, and residence, occupation, or calling of the owner or owners, and also the words "common stage cart," painted thereon in the same manner as is hereinbefore prescribed with respect to the carriage and exemption No. 1.

SCHEDULE (D.), CARRIAGES—(Continued.)

3. Of the Assessed Taxes themselves.

No. 4.

For Taxed Carts (a).

For every carriage with less than four wheels, to be drawn by one horse, mare, or gelding, and not otherwise, which shall be built and constructed wholly of wood and iron, without any covering other than a tilted covering, and without any lining, and with a fixed seat without slings or braces, and without any ornament whatever, other than paint of a dark colour, for the preservation of the wood or iron only, and which shall have the words "A Taxed Cart," and the owner's christian and surname, and place of abode, and also the name and place of abode of the maker thereof, and the full value thereof, or the actual price or consideration paid or given for the same, marked or painted on a black ground in white letters, or on a white ground in black letters, on the outside of the back pannel or back part of such carriage, in words at full length, and in Roman characters, each of the letters thereof being at least one inch in length, and of a breadth in proportion, and which shall be kept by any person or persons for his, her, or their own use, and not for hire, there shall be charged the respective duties hereinafter mentioned; that is to say,

For every carriage called a taxed cart, built and constructed according to the regulations before mentioned, and which shall be constructed without any spring or springs of any materials whatever, and the price of which (repairs excepted) shall not have exceeded, or the value thereof shall not at any time exceed the sum of 15*l.* sterling, and which shall not at any time be used with a covered or stuffed seat or cushion fixed or not fixed thereto, or with a covered footboard or apron fixed or not fixed thereto, the annual sum of

Aggregate
Duty.

1 9 0

In addition to the duty of 1*l.* 6*s.* 6*d.* granted thereon by the act passed in the 50th year of the reign of his present majesty

And for every carriage called a tax cart, built and constructed according to the said regulations, with a spring or springs of any materials whatever, except of iron, steel, or other metallic substance, or any composition of iron or steel, or other metallic substance, either wholly or in part, the original price of which carriage shall not have exceeded, or the value thereof shall not at any time exceed the sum of 2*l.* sterling, or which shall be used with a covered or stuffed seat or cushion fixed or not fixed thereto, or with a covered footboard or apron thereto fixed or not fixed, the annual sum of

2 15 0

In addition to the duty of 2*l.* 10*s.* granted thereon by the act passed in the 50th year of the reign of his present majesty.

And for every carriage with less than four wheels, constructed with a spring or springs of iron, steel, or other metallic substance, or any composition of iron, steel, or other metallic substance, the respective sums mentioned in Schedule (D.) No. 2, in addition to the respective duties granted by the said acts passed in the 48th and 50th years of the reign of his present majesty, on carriages with less than four wheels.

All which duties in respect of carriages herein mentioned shall be charged upon and paid by the person or persons keeping the same respectively.

On Taxed Carts.
N. B. Repealed
(a).

Save and except always all carriages built and constructed as aforesaid, belonging to any person or persons who are or shall be liable to be assessed to the before-mentioned duties in respect of a four-wheeled carriage, or who are or shall be liable to be assessed

Exception.

(a) Repealed by 4 Geo. IV. c. 11, s. 1, ante, 1024; and 6 Geo. IV. c. 7, s. 1, ante, 1028.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (D.), CARRIAGES—(Continued.)

to the before-mentioned duties on male servants, contained in Schedule (C.), No. 1, in respect of two such male servants; which persons respectively shall be charged for such carriages, although built and constructed as aforesaid, at the rate prescribed in the respective schedules marked (D.) No. 2, of the said act of the 48th Geo. III. c. 55, and this act, for carriages with less than four wheels.

EXEMPTIONS from the several Duties in Schedule (D.) Nos. I., II., III., and IV.

- Royal family. "Case 1.—Any carriages belonging to his majesty, or any of the royal family."
- Hackney-coaches. "Case 2.—Any coach or coaches, licensed by the commissioners for hackney-coaches within the cities of London and Westminster, and the suburbs thereof, to be used as hackney-coaches there, and numbered according to law."
- Coachmakers. "Case 3.—Any carriage kept by any coachmaker or maker of carriages, at any time after the 5th day of April, 1811, *bonâ fide* for the purpose of sale, or of being lent to any person whose carriage, being of the same denomination or description, shall be then making, mending, or repairing, by such coachmaker or maker of carriages, and during the time the same shall be necessarily under repair; provided such carriage shall not at any time, whilst in the possession of such coachmaker or maker of carriages, be employed for his or her own use, or let to hire, or otherwise lent than as aforesaid."
- Carts. "Case 4.—Any common stage cart which shall be kept, truly and without fraud, to be used wholly in the affairs of husbandry, or in the carriage of goods in the course of trade, and whereon the name and place of residence of the owner, and the words 'common stage cart' shall be legibly painted, although the owner, or his or her servant, shall or may, for the purpose of driving or conducting the same only, occasionally ride therein or thereon when laden, or when returning from any place to which, or when going to any place from which any load shall have been or shall be to be carried in such cart, in the course of husbandry or trade; or which shall be used for conveying the owners thereof or their families to or from any place of divine worship on Sunday or on Christmas Day, or on Good Friday, or on any day appointed for a public fast or thanksgiving; or for carrying persons going to or returning from the elections of members to serve in Parliament; in case such carriage shall not have been or be used for any other purpose of riding thereon or therein, save as aforesaid, or shall not have been or be let to hire, for any of such purposes of riding therein or thereon."

No. 5.

"A SCHEDULE of the Duties payable by Coachmakers, and Makers of other Carriages, chargeable with Duty by this Act, and on Carriages made, sold, or repaired, as herein mentioned (a)."

On coachmakers.
N. B. Repealed
(a).

By every person who shall carry on the trade of a coachmaker or maker of any carriages chargeable with duty by this act, and by every dealer therein, the annual duty of	0 4 0	Aggregate Duty.
In addition to the duty of 6s. granted thereon by the act passed in the 48th year of the reign of his present majesty		0 10 0
And where the duty granted by the said act shall not be chargeable thereon, the annual sum of		0 10 0
By every such coachmaker or maker of such other carriages as aforesaid, and by every dealer therein, for every such carriage with four wheels, which he or she shall make, build, construct for sale, or sell, the sum of	0 2 6	1 5 0
In addition to the duty of 1 <i>l.</i> 2 <i>l.</i> 6 <i>d.</i> granted thereon by the said act		
And where the duty granted by the said act shall not be chargeable thereon, the sum of		1 5 0
And for every such carriage with less than four wheels, which he or she shall make, build, construct for sale, or sell, the sum of	0 1 3	0 12 6
In addition to the duty of 1 <i>l.</i> 3 <i>d.</i> granted thereon by the said act		
And where the duty granted thereon shall not be chargeable by the said act, the sum of		0 12 6

(a) Repealed by 6 Geo. IV. c. 7, s. 1, *ante*, 1028.

SCHEDULE (D.)—(Continued.)

By every maker or makers of, or dealer in any carriage, built, constructed, and used, according to the regulations prescribed by this act for taxed carts, and of the values limited by the schedule of this act, the annual sum of	0	3	0
In addition to the duty of 2s. 6d. granted thereon by the said act			
And where the duty granted by the said act shall not be chargeable thereon, the annual sum of	0	3	0
By every such maker or makers of carriages as last aforesaid, for every such carriage which he, or she, or they shall make, build, or construct for sale, or sell, the sum of	0	3	0
In addition to the duty of 2s. 6d. granted thereon by the said act			
And where the duty granted by the said act shall not be chargeable thereon, the sum of			

No. 6.

"A SCHEDULE of the Duties payable by Persons selling any CARRIAGES chargeable with Duty by this Act, by Auction or on Commission, to be charged in Addition to the Duties granted thereon by the Act passed in the 48th Year of the reign of his present Majesty (a)."

By every person who shall sell any carriage chargeable with duty by this act, by way of auction or on commission, for or in expectation of profit or reward, the duty of	0	4	0	On sales of carriages by auction. N. B. Repealed. (a)
For every such carriage with four wheels, the sum of	0	2	6	
And for every such carriage with two wheels, except taxed carts, the sum of	0	1	3	
And for every such taxed cart, the sum of	0	3	0	

Provisions by the 43 Geo. III. c. 161, respecting the Payment of the various Duties on Carriages.

By the 43 Geo. III. c. 161, s. 27, persons who have kept any carriages in the year ending on the days appointed for the commencement of the duties in 1804, are to return certain lists to the assessors. See the whole section, *ante*, p. 1002.

Sect. 39 points out the proceedings where persons keeping carriages have no fixed residence. See the whole section, *ante*, p. 1006.

Sect. 43 enacts, that coachmakers, &c., shall keep accounts of carriages built, or sold by auction or on commission. See the whole section, *ante*, p. 1007.

Sect. 44 states that proper forms for such accounts are to be had at the Tax Office, *ante*, 1008.

Sect 45 directs assessors, &c., to whom coachmakers, or sellers of carriages, shall deliver accounts, to certify the same to commissioners, *ante*, 1009.

(a) Repealed by the 6 Geo. IV. c. 7, s. 1, *ante*, 1028.

3. Of the Assessed Taxes themselves.

SCHEDULE (E.)

[48 Geo. III. c. 55; 52 Geo. III. c. 93; 4 Geo. IV. c. 11; 1 Wil. IV. c. 35; 3 & 4 Wil. IV. c. 39; 4 & 5 Wil. IV. c. 73; and 5 & 6 Wil. IV. c. 64.]

No. 1.

Schedule (E.), duties on horses, &c.

A SCHEDULE of the Duties payable annually for all HORSES, MARES, and GELDINGS, kept by any Person or Persons for the purpose of RIDING, or for the purpose of DRAWING any CARRIAGE chargeable with Duty by SCHEDULE (D)."

NUMBER THEREOF.	By the 48 Geo. 3, c. 55.			By the 52 Geo. 3, c. 93.			Moiety of Duty now payable (a).		
	£	s.	d.	£	s.	d.	£	s.	d.
For 1 horse, mare, or gelding	2	13	6	0	4	0	1	8	9
2 do. each horse, &c.	4	9	6	0	5	0	2	7	3
3 do.	4	18	6	0	6	0	2	12	3
4 do.	5	2	0	0	8	0	2	15	0
5 do.	5	3	0	0	8	6	2	15	9
6 do.	5	7	6	0	8	6	2	18	0
7 do.	5	10	0	0	9	6	2	19	9
8 do.	5	10	0	0	9	6	2	19	9
9 do.	5	12	0	0	9	6	3	0	9
10 do.	5	17	6	0	9	6	3	3	6
11 do.	5	17	6	0	9	6	3	3	6
12 do.	5	17	6	0	9	6	3	3	6
13 do.	5	18	0	0	9	6	3	3	9
14 do.	5	18	0	0	9	6	3	3	9
15 do.	5	18	0	0	9	6	3	3	9
16 do.	5	18	0	0	9	6	3	3	9
17 do.	5	18	6	0	9	6	3	4	0
18 do.	5	19	6	0	9	6	3	4	6
19 do.	6	0	0	0	10	0	3	5	0
20 and upwards	6	1	0	0	11	0	3	6	0

" RULES, by Schedule (E.) of Statutes 48 Geo. III. c. 55, and 52 Geo. III. c. 93, for Charging the said Duties.

" The said duties to be payable for every horse, mare, or gelding, kept for the purpose of riding, or of drawing any carriage for which any duty is payable by this act, or hired by the year, or any longer period, according to the greatest number of such horses, mares, or geldings, which the same person shall have kept at one time in the course of the preceding year, and to be paid by the person or persons keeping the same, except as after mentioned."

By the 4 Geo. IV. c. 11, s. 2, one moiety of the duties on horses shall cease, provided reduced duties shall not include any fraction of 1d.

The 59 Geo. III. c. 13, s. 2, enacts, that after the 5th of April, 1819, the progressive duties chargeable on horses used by butchers shall be discontinued; and that from the said 5th of April, 1819, there shall be paid for every horse, &c. which shall be used by any butcher or his servant in his trade, the annual sum of 2*l.* 17*s.* 6*d.*: provided, that where such butcher shall use two horses, &c., and no more, there shall be charged for such second horse, &c. the annual sum of 1*l.* 1*s.*

Sect. 3 enacts, that after the 5th of April, 1819, the duties chargeable on horses, &c., not exceeding thirteen hands high, used for the purposes of

(a) By the 4 Geo. IV. c. 11, s. 2, a by 1 Wil. IV. c. 35; 3 & 4 Wil. IV. c. moiety of the aggregate duty was repealed, 39; and 4 & 5 Wil. IV. c. 73, *post*, *ante*, 1025; and see exemptions granted 1070.

SCHEDULE (E.)—(Continued.)

3. Of the Assessed Taxes themselves.

riding or drawing carriages, shall cease; and from the said 5th of April, 1819, there shall be paid for every horse, &c., not exceeding thirteen hands high, and used for the purposes of riding or drawing any carriage, the annual sum of 2*l.* 2*s.*: provided that nothing in this act shall take away the exemption to which any person keeping any such horse, &c., is by law entitled.

Sect. 5 enacts, that after the 5th of April, 1819, the duties payable in respect of one horse, &c., *bonâ fide* kept for and usually employed by any bailiff upon the concerns of any farm with which he may be entrusted, shall cease.

“EXEMPTIONS from the said Duties in Schedule (E.), No. 1.

“I.—Any person or persons who shall keep any horse, mare, or gelding, which shall be used truly and without fraud for the purpose of husbandry, or of drawing any carriage (except such carriages as are liable to any duty by this act), or carrying burthens in the course of the trade or occupation of the person or persons to whom such horse, mare, or gelding, shall belong, for one such horse, mare, or gelding, used for riding, on the occasions and in manner hereinafter mentioned; that is to say, when returning from any place to which any load or burthen shall have by such horse, mare, or gelding, been drawn or carried, or in going to any place from whence any load or burthen shall be to be brought back by such horse, mare, or gelding, or for the purpose of procuring medical assistance, or for the purpose of riding to or from market, or to or from any place of public worship, or to or from any election of members to serve in Parliament, or to or from any courts of justice, or to or from any meeting of the commissioners of taxes; provided such one horse, mare, or gelding, shall not on any occasion be used for any other purpose, save as aforesaid.”

“II.—Any person occupying a farm as tenant at rack-rent, the rent of which shall be less than 70*l.* a-year, and making a livelihood solely thereby; or any person occupying any estate on any other tenure than as tenant at rack-rent solely, or such estate, together with a farm at rack-rent, the value of which, in the whole, shall be less than equivalent to a farm at the rack-rent of 70*l.* a-year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, for one horse, mare, or gelding, *bonâ fide* kept and usually employed for the purpose of husbandry on his said estate or farm, although used occasionally for the purpose of riding.”

“III.—Any person occupying a farm as tenant at rack-rent, and making a livelihood solely thereby, or any person carrying on a trade, and making a livelihood solely thereby, or making a livelihood by such occupation and trade jointly; or any ecclesiastical person not possessed of an annual income of 100*l.* or upwards, whether arising from any ecclesiastical preferment or otherwise, for one horse, mare, or gelding, used only for the purpose of drawing any carriage with less than four wheels, liable to the duty hereby made payable on taxed carts.”

“Provided always, that in every such case the said horse, mare, or gelding, shall be duly returned, and the exemption hereby granted shall be duly claimed in the manner and at the time directed by this act.”

See, further, exemptions in favour of *husbandry horses* on certain farms occasionally used for riding, and in relation to horses used by carmen, 1 Wil. IV. c. 35, ss. 3 & 4, *ante*, 1057; afterwards repealed by 4 & 5 Wil. IV. c. 73, s. 6, as to exemption of occupiers of farms under 200*l.* a-year, and exemption extended to occupiers of farms under 500*l.* a-year. See sects. 5, 6, 7, 8, 9, and 11.

See 3 & 4 Wil. IV. c. 39, s. 6, exempting horses employed by market gardeners from the payment of duty. See also 4 & 5 Wil. IV. c. 73, sects. 5, 6, 7, 8, 9 and 11, *post*, 1070, containing further exemptions.

(a) See 4 & 5 Wil. IV. c. 73, s. 6, and explained by 5 & 6 Wil. IV. c. 64, extending exemption to farms of 500*l.* a-year; and this section further amended

SCHEDULE (E.)—(Continued.)

No. 2.

“A SCHEDULE of the Duties payable on Horses let to Hire (a).”

“For every horse, mare, or gelding, kept for the purpose of riding, or of drawing any carriage liable to duty by this act, and let to hire in any manner so that the stamp-office duty payable by law on horses let to hire shall not be payable, the annual sum of	Moiety Duty.
0 4 0	1 8 9
In addition to the duty of 2 <i>l.</i> 13 <i>s.</i> 6 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty.	

“To be charged on the person or persons letting the same; provided, if a due return thereof shall not be made by the hirer or hirers, according to this act, the progressive duty made payable by the said act of the 48th Geo. III. c. 55, and this act, as set forth in the respective schedules of the said acts marked (E.), No. 1, shall be chargeable in respect of every such horse, mare, or gelding, on the person or persons hiring the same, and making such default as aforesaid, subject to the provisions contained in this act concerning the same.”

No. 3.

“A SCHEDULE of the Duties payable on RACE-HORSES (a).”

“For every horse, mare, or gelding, <i>bonâ fide</i> kept for the purpose of racing or running for any plate, prize, or sum of money, or other thing, or kept in training for any of the said purposes, whether in the stables of the proprietor or proprietors, or of any other person or persons, the annual sum of	Aggregate Duty.
0 4 0	1 8 9
In addition to the duty of 2 <i>l.</i> 13 <i>s.</i> 6 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty	

“The said duty to be charged on the person or persons having the custody, care, or management of such horses, mares, or geldings.”

5 & 6 Wil. IV. c. 64, s. 14, repeals the duties on race horses, granted by the several acts of 44 Geo. III. c. 98; 48 Geo. III. c. 55; and 52 Geo. III. c. 93; and s. 15 imposes a duty of 3*l.* 10*s.* per annum, to be charged on each race horse, mare, or gelding in lieu of former duties.

SCHEDULE (F.) DUTIES ON ALL OTHER HORSES AND MULES (a).

[48 Geo. III. c. 55; 4 Geo. IV. c. 11, s. 2; and 1 Wil. IV. c. 35.]

No. 1.

“A SCHEDULE of the Duties payable for all other HORSES, MARES, or GELDINGS, not charged with any Duties according to the former Schedules of this Act, and on Mules (except such other Horses, Mares, Geldings, and Mules, for which other Duties are hereinafter made payable.)”

“For every such other horse, mare, or gelding, being of the height of thirteen hands or more, of four inches to each hand, and for every mule, the annual sum of	Moiety Duty.
0 7 0	0 10 6
In addition to the duty of 14 <i>s.</i> granted thereon by the said act passed in the 48th year of the reign of his present majesty	
For every such other horse, mare, or gelding, being under the height of thirteen hands, of four inches to each hand, the annual sum of	
	0 3 0

(a) By the 4 Geo. IV. c. 11, s. 2, a mule or gelding let to hire, provided the same are not moiety of the aggregate duty was repealed, let to draw any carriage chargeable with ante, 1025; and 4 & 5 Wil. IV. c. 73, duty.
s. 7, exempts husbandry horses occasion-

SCHEDULE (F.)—(Continued.)

3. Of the Assessed Taxes themselves.

The 1 & 2 Geo. IV. c. 110, repealed the duties on *husbandry horses*.

The 59 Geo. III. c. 13, s. 7, enacts, "that nothing in the said recited act contained shall extend or be construed to extend, so as to preclude any occupier of land therein described from the benefit of the reduced assessment therein mentioned, by reason of his, her, or their lending or letting any horse or horses, mare or mares, gelding or geldings, in respect of which such reduced assessment shall be made, to be employed solely, *bona fide*, and for no other purpose whatsoever, *except for the purposes of agriculture, or for the making or repairing of roads, or for drawing coal, wood, peat, or turf, for consumption as fuel, in any private house or houses, and not for the purposes of sale.*"

Proviso for lending or letting of horses for the purposes of agriculture, &c. (a).

Sect. 8. "That any tenant coming into the occupation of his or her farm at or after Midsummer in any year, may appeal to the commissioners for executing this act, and on proof, to their satisfaction, that he or she shall not have kept or used any horses, mares, or geldings, by him or her used in the cultivation of the said farm prior to his or her coming into the occupation of such farm, shall be entitled to be released and discharged from one moiety of the annual assessment payable in respect of the said horses, mares, or geldings."

On appeal, tenants coming into occupation at or after Midsummer, discharged from moiety of annual assessment.

By the 5 Geo. IV. c. 44, s. 5, it is enacted, "that upon all assessments to be made for any year or years, commencing from and after the fifth day of April, 1824, any person occupying a farm of less value than 100*l.* per annum, and making a livelihood solely thereby, as owner or tenant, in the manner described in the said acts, and as applied to exemptions from the duties on horses, mares, or geldings kept by such occupiers and rode on the occasions therein mentioned, shall be exempt from the duty by the said acts granted in respect of any dog or dogs, not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, which shall have been or shall be *bona fide* and wholly kept and used by such occupier, or by any person employed by him or her as a shepherd, on his or her said farm in the care of sheep: provided, that every such exemption shall be claimed and allowed in like manner as is directed by the acts relating to the assessed taxes in other cases of exemption therein mentioned."

Exemption for shepherd's dogs.

By the 56 Geo. III. c. 66, s. 7, it is enacted, "that, from after the fifth day of April, 1816, during the period limited by this act, for all mares which have been or shall be wholly used for the purposes of husbandry, and which, at any time during the continuance of this act, shall be kept for breeding, there shall be charged the like duties, and no other, as would have been chargeable in respect of the said mares if they had continued to be used for the said purposes of husbandry."

Duties on mares kept for breeding, and used only in husbandry.

By the 59 Geo. III. c. 13, s. 4, it is enacted, "that, from and after the said fifth day of April, 1819, all mares which shall be kept for the sole purpose of breeding, shall, whilst so kept, be wholly exempt from duty; and that all persons shall and may sell any horses which shall have been bred by them, or kept by them as farming stock upon lands in their occupation, for the space of three months at the least, without being liable to be assessed to the duties payable by horse-dealers; anything in any act or acts to the contrary notwithstanding."

Exemption of all breeding mares and horses bred by the sellers, &c.

By the 1 & 2 Geo. IV. c. 20, intituled, "An Act to continue, until the fifth day of April, 1823, several acts of his late majesty, for reducing the Duties payable on Horses used for the purposes therein mentioned," after reciting, that, "whereas by an act passed in the fifty-sixth year of the reign of his late majesty, king George the Third, intituled, 'An Act for reducing the Duties

56 Geo. 3, c. 56, s. 1.

(a) By 4 & 5 Wil. IV. c. 73, s. 8, *drawing manure, fodder, &c.*, without licensed postmasters are allowed to use being liable to duty. their post horses in husbandry and in

3. *Of the Assessed Taxes themselves.*

SCHEDULE (F.)—(Continued.)

58 Geo. 3, c. 16.

59 Geo. 3, c. 13,
s. 1.

Duties further
continued.

43 Geo. 3, c. 55.

52 Geo. 3, c. 93.

56 Geo. 3, c. 66,
s. 1.

payable on Horses used for the purposes therein mentioned, for Two Years, and for repealing the Acts granting Allowances in respect of Children,' certain duties of assessed taxes were discontinued and suspended, and other duties substituted in lieu thereof for the term of two years next after the fifth day of April, 1816; and which rates of substituted duties were continued by another act passed in the fifty-eighth year of the reign of his said late majesty, intituled, 'An Act to continue until the Fifth day of April, 1819, and amend an Act of the Fifty-sixth Year of his present Majesty, for reducing the Duties payable on Horses used for the purposes therein mentioned,' and extended to other cases therein mentioned, for the term of one year, from the fifth day of April, 1818, until the fifth day of April, 1819; and the same rates of substituted duties were in like manner further continued for the term of two years, from the fifth day of April, 1819, by another act passed in the fifty-ninth year of the reign of his said late majesty, intituled, 'An Act to continue Two Acts of the Fifty-sixth and Fifty-eighth Years of his present Majesty, for reducing the Duties payable on Horses used for the purposes therein mentioned, to the fifth day of April, 1821; and to reduce the Duties chargeable under certain Acts of the Forty-eighth and Fifty-second Years of his present Majesty, in respect of certain Horses, Mares, Geldings, and Mules:' and whereas it is expedient to continue the same substituted rates of duty in the said several acts mentioned, for a further time herein limited:" it is enacted, "that the said several duties, and the regulations and provisions for assessing, charging, raising, levying, collecting, applying, and accounting for the same, in the said several acts mentioned, shall be, and the same are hereby severally continued, from the fifth day of April, 1821, until and upon the fifth day of April 1823."

By the 1 & 2 Geo. IV. c. 110, intituled, 'An Act for repealing the Duties imposed on Husbandry Horses, and to make perpetual several Acts for reducing the Duties on certain Horses and Mules,' after reciting, that, "whereas by an act passed in the forty-eighth year of the reign of his late majesty king George the Third, intituled, 'An Act for repealing the Duties of Assessed Taxes, and granting New Duties in lieu thereof, and certain Additional Duties to be consolidated therewith; and also for repealing the Stamp Duties on Game Certificates, and granting New Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes;' certain duties contained in the schedule marked (F.) of the said act were imposed and made payable on all horses, mares, and geldings, not charged with any duty, according to the schedule marked (E.) of the said act, and on mules in the cases thereafter mentioned, in lieu of certain duties thereby repealed; and whereas also, by another act, passed in the fifty-second year of the reign of his said late majesty, intituled, 'An Act for granting to his Majesty certain New and Additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes,' certain other and additional duties were imposed and made payable on horses, mares, or geldings, and mules, kept for the purposes of husbandry, which are severally contained in a schedule of the last-mentioned act, marked (F.) No. 2; and whereas, by another act passed in the fifty-sixth year of the reign of his said late majesty, intituled, 'An Act for reducing the Duties payable on Horses used for the purposes therein mentioned for Two Years, and for repealing the Acts granting Allowances in respect of Children,' the duties imposed and made payable by the acts before mentioned, on horses kept for the purpose of husbandry, were discontinued and suspended, so far as the same relates to persons occupying farms of the description and value therein mentioned, for the term of two years, from the fifth day of April, 1816, and other duties substituted on persons occupying farms as tenants at a rack rent less than 200*l.* per annum, and making a livelihood solely thereby, or any other estate therein described, of a value less than equivalent to a farm at the rack rent of 200*l.* per annum, and making a livelihood solely by such estate, or by such estate and farm jointly: and whereas

SCHEDULE (F.)—(Continued.)

3. *Of the Assessed Taxes themselves.*

58 Geo. 3, c. 16.

50 Geo. 3, c. 13.

the said reduced duties were, by certain acts passed in the fifty-eighth and fifty-ninth years of the reign of his said late majesty, further continued until and upon the fifth day of April, 1821: and whereas an act was passed on the sixth day of April, 1821, during the present session of parliament, intituled, 'An Act to continue, until the Fifth day of April, 1823, several Acts of his late majesty, for reducing the Duties payable on Horses used for the purposes therein mentioned,' whereby the said substituted duties were continued until and upon the fifth day of April, 1823: and whereas divers petitions, praying, amongst other things, for the repeal of the duties granted by the said recited acts, were presented to the Commons in parliament assembled in the present session; which petitions, whilst the said act last before recited was pending, were referred to the consideration of a select committee of the said Commons; and it was intended to make provision in the said recited act for allowing the amendment or repeal thereof in the present session of parliament, for the purpose of enabling parliament to give such relief to the said petitioners as to the wisdom of parliament should seem expedient; which provision was, by mistake, omitted to be inserted therein: and whereas, since the passing of the said last-mentioned act, leave hath been given by the Commons, in parliament assembled, to bring in a bill to repeal the said duties, so far as they relate to and are imposed on horses, mares, geldings, or mules kept and used for the purposes of husbandry only; and it is expedient that the said duties shall be repealed from and after the fifth day of April, 1822, and that the said act of the present session for continuing the said duties, depending upon and connected with the continuance of the duties granted by the two first-mentioned acts, and hereby repealed, should also be repealed from the same period," it is enacted, "that from and after the fifth day of April, 1822, the said several duties on persons, in respect of horses, mares, geldings, or mules, kept and used solely for the purposes of husbandry in Great Britain, and all assessments thereon, shall severally cease and determine."

So much of recited acts as relate to duties on husbandry horses, &c. repealed.

Sect. 2. "That the assessments made or to be made on persons, in respect of horses, mares, geldings, or mules before described, for the year to end on the fifth day of April, 1822, in pursuance of the acts hereinbefore mentioned, shall be in force for the purpose of collecting, levying, receiving, or paying the duties thereon, for one quarter of the said year, and no longer; and it shall be lawful for the respective commissioners, or any two or more of them, at their meetings to be held in the several counties, ridings, divisions, shires, stewartries, cities, wards, towns, and places in Great Britain, after the end of the first quarter of the said year, and after payment of one-fourth part of the duty assessed on the said persons for the said year, to discharge the remainder of the said duties, so assessed on the said persons, and to make and return their schedules of discharge thereof at the time and in the manner directed by the said acts, for making and returning their certificates of charge on assessed taxes for that year; and the said respective commissioners, and all persons acting under them in the execution of the said acts, and all parishes and places, and the inhabitants thereof respectively, shall be indemnified and exonerated from all claims, in respect of the proportion of the said assessments hereby directed to be discharged."

Power to commissioners to discharge the assessment of the said acts now in progress for three quarters of a year, after payment of one quarter's duty on husbandry horses.

Sect. 3. "That it shall be lawful for the commissioners, or any two or more of them, at their meetings to be held in the several counties, ridings, divisions, stewartries, cities, wards, towns, and places in Great Britain, where any such contracts shall have been entered into, at any time after the payment of one-fourth part of the duty chargeable for horses, mares, geldings, or mules used for the purpose of husbandry contained in any such contract, and thereby made payable or becoming due within the third year of such contract, whether the amount of such composition shall be made payable quarterly or half-yearly, to discharge the residue of the duty on such horses, mares, geldings, or mules, contained in any such contract, but nevertheless without discharging any part of the additional duty thereon contracted,

Powers to commissioners to discharge the duty on husbandry horses compounded for, for three quarters of the present year.

Proviso for additional duty.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (F.)—(Continued.)

The duties on mules used in carrying stone, slate, &c. to cease as herein mentioned.

Reduced duties of the said acts on horses for riding, &c., granted for a limited period, made perpetual.

Proviso.

Act not to revive former repealed duties.

Provisions of the said acts to remain in force for levying arrears, &c.

Exemptions relating to horses.

thereby to be paid, and to make and return their schedules of discharge thereof, in the manner hereinbefore directed to be done in cases of assessment, under and subject to the like immunities and indemnities as are before declared concerning assessments."

Sect. 4. "That from and after the fifth day of April, 1822, the duties on mules, imposed and made payable on mules by any of the said acts, shall cease and determine in respect of all and every the person or persons who shall seek his, her, or their livelihood by the carriage or conveyance of ore, slate, or stone, coal or culm, to or from the mine or pit, or by the carriage of lime, sea-sand, sea-weed, or other manure; provided that such ore, slate, or stone, or coal or culm, sea-sand, sea-weed, or other manure, be loaded on the backs of such mule, and not otherwise."

Sect. 5. "And whereas by the said acts certain other duties of assessed taxes, in respect of horses, mares, or geldings, are reduced in certain cases therein described for a limited time, and it is expedient that the said reduced duties should be made perpetual; be it further enacted, that the reduced duties imposed by the said acts on horses, mares, or geldings, shall, in every case where the same are granted during the continuance of the said acts, be further continued and made perpetual by virtue of this act: provided always, that nothing in the said acts or in this act shall be construed to affect any exemption to which the use of such horses, mares, or geldings, may entitle the person keeping the same, by any act passed prior to the granting of the said reduced duties."

Sect. 6. "That nothing herein contained shall be construed to revive any rate or duty imposed on horses, mares, or geldings, by any act or acts repealed by the said first-mentioned act of the forty-eighth year of the reign of his late majesty, or by any other act herein mentioned."

Sect. 7. "That nothing herein contained shall be construed to repeal any of the provisions of the said acts, relating to any of the assessed taxes or any compositions for the same, other than the duties or compositions on such husbandry horses, mares, geldings, or mules before mentioned; and that all the provisions of the said acts shall continue to be in force, for the purpose of making and completing the assessments and compositions on such husbandry horses, mares, geldings, or mules, for the present and all former years, and for the raising, levying, paying, and accounting for the sums assessed or compounded for, payable before or upon the period hereby fixed for discharging the assessments within the present year, as before directed; and also for the levying, collecting, and paying all and every the arrears of the said duties, which shall have been or shall be charged for any year prior to the passing of this act, or which shall have been or shall be charged for the present year, and not directed to be discharged by this act, and which shall be in arrear and unpaid; and for the suing for, adjudging, and recovering any penalty or forfeiture which shall have been or may be incurred in respect of any such assessment, and for the hearing appeals against any such assessment."

The 3 & 4 Wil. IV. c. 39, s. 6, exempts horses employed by market gardeners from duty. And the 4 & 5 Wil. IV. c. 73, s. 5, exempts clergymen and dissenting ministers whose incomes are under 120*l.* a-year, from the duty on one riding-horse. By sect. 6, the exemption granted by 1 Wil. IV. c. 35, to occupiers of farms under 200*l.*, for the duty on one horse, is extended to farms under 500*l.* per annum. Sect. 7, exempts husbandry horses and mules occasionally used for other purposes of draught, or let to draw for hire, provided the same shall not be used for drawing any carriage chargeable with duty. By sect. 8, postmasters are allowed to use their post-horses in husbandry, and in drawing manure, fodder, &c., without being liable to duty. Sect. 9 exempts horses rode by bailiffs, shepherds, and herdsmen, from payment of duty; and sects. 11 and 12 direct how exemptions to be claimed, &c.

SCHEDULE (F.)—(Continued.)

No. 2.

3. Of the Assessed Taxes themselves.

" A SCHEDULE of the Duties payable on HORSES, MARES, or GELDINGS, kept for the purposes of Husbandry (a)."

For every horse, mare, or gelding, being of the height of thirteen hands or more, of four inches to each hand, <i>bonâ fide</i> kept and solely used for the purposes of husbandry (except as hereinafter mentioned), the annual sum of	0 3 6	Aggregate Duty.	0 17 6
In addition to the duty of 14s. granted thereon by the act passed in the 48th year of the reign of his present majesty			
Any person occupying a farm at rack-rent, the rent of which shall be less than 20 <i>l.</i> a year, and making a livelihood solely thereby, or occupying any estate on any other tenure than as tenant at rack-rent solely, or such other estate, together with a farm at rack-rent, the value of which in the whole shall be less than equivalent to a farm at the rack-rent of 20 <i>l.</i> a year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, or principally thereby, and likewise a profit by any trade or employment, and keeping not more than two horses, mares, geldings, or mules, <i>bonâ fide</i> for the purpose of such occupation, shall be charged for each of such two horses, mares, geldings, or mules, the annual sum of	0 0 2		0 3 0
In addition to the duty of 2s. 10 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty			
Any person occupying a farm at rack-rent, the rent of which shall be less than 10 <i>l.</i> sterling a year, and making a livelihood principally thereby, or occupying any estate or any other tenure than as tenant at rack-rent, or such other estate, together with a farm at rack-rent, the value of which in the whole shall be less than equivalent to a farm at the rack-rent of 10 <i>l.</i> sterling a year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood principally thereby, and likewise a profit by any trade or employment, and keeping not more than two horses, mares, geldings, or mules, <i>bonâ fide</i> for the purposes of such occupation and of such trade or employment jointly, or either of them separately, shall be charged for each of such two horses, mares, geldings, or mules, the annual sum of	0 0 2		0 3 0
In addition to the duty of 2s. 10 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty			

" RULES for Charging the Duties as set forth in Schedule (F.), Nos. 1 and 2.

" The said duties to be charged on the person or persons keeping or using such horses, mares, geldings, or mules, and to be payable for every horse, mare, or gelding, and mule, which shall not be chargeable, nor have been charged, with any duty payable in that year, according to the schedule of the said act of the 48th Geo. III. c. 55, or the preceding schedule of this act respectively marked (E.), No. 1, except as hereinafter is mentioned."

" EXEMPTIONS from the Duties in Schedule (F.), No. 1 and 2.

" Any person whatever, for any horse, mare, or gelding, which shall not at any time whatever have been used for any purpose of labour, or otherwise."

(a) As to husbandry horses, see 4 Geo. IV. c. 11, s. 1, repealing act; and see 1 Wil. IV. c. 35, ss. 3, 4, *ante*, 1025, and 4 & 5 Wil. IV. c. 73, s. 7, exempting husbandry horses from payment of duty, though occasionally used for other purposes of draught, or let to draw for hire; and s. 9, exempts horses rode by bailiffs, shepherds, and herdsmen.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (F.)—(Continued.)

“EXEMPTIONS to the several Duties as set forth in the several Schedules marked (E.) and (F.)

Royal family.	“Case I.—Any horse, mare, or gelding, belonging to his majesty, or any of the royal family.”
Postmasters, &c.	“Case II.—Any postmaster, innkeeper, or other person licensed for that purpose by the commissioners appointed to manage the duties charged on stamped vellum, parchment, and paper, in respect of any horse, mare, or gelding, let to hire by him or her; provided that such horse, mare, or gelding, shall in every case be <i>bona fide</i> let to hire by him or her in such manner that the stamp-office duty shall be payable on such horses let to hire on each letting, and shall be accounted for by delivery of the ticket denoting the stamp-office duty payable, and be duly satisfied and paid on each letting, according to the directions of the act or acts granting such stamp duty, without making composition for the same; and provided that such horse, mare, or gelding shall not, on any occasion, be used by such licensed person, or any other, without such letting to hire, and payment of stamp duty as aforesaid.”
Stage-coach masters.	“Case III.—Any person or persons duly licensed to keep any carriage whatever, to be employed as a public stage-coach or carriage for the purpose of conveying passengers for hire from different places in Great Britain, in respect of any horses, mares, or geldings, which are or shall be actually and solely used and employed by such person or persons in drawing such stage-coach or carriage from place to place.”
Hackney coachmen.	“Case IV.—Any person licensed by the commissioners for hackney coaches within the cities of London and Westminster, and the suburbs thereof, to keep any hackney coach or coaches, for any horses, mares, or geldings, kept for the purpose of drawing such coach in respect of the duties in the said respective schedules marked (E.), No. 1, and for two horses, mares, or geldings, and no more, kept for the purpose of drawing each coach so licensed in respect to the duties in the said respective schedules marked (F.), No. 1.”
Horse-dealers.	“Case V.—Any dealer in horses assessed to the duties made payable by this act on such dealers, for any horse, mare, or gelding belonging to such dealer, and kept <i>bona fide</i> for sale, and not used for any other purpose, or in any other manner.”
Poor persons.	“Case VI.—Any person who, on account of poverty, shall be discharged from the assessment made in respect of his or her dwelling-house, in pursuance of the regulations of any of the acts herein mentioned, for one horse, mare, gelding, or mule; provided such person shall not keep more than one such horse, mare, gelding, or mule, and the same shall not be let to hire.”
Rector, &c.	“Case VII.—Any rector, vicar, or curate actually doing duty in the church or chapel of which he is rector, vicar, or curate, who shall not be possessed of an income of 60 <i>l.</i> per annum or upwards, whether arising from ecclesiastical preferment or otherwise, and who shall not keep more than one horse, mare, gelding, or mule, for the purpose of riding, which otherwise would be chargeable with duty, according to the provisions of this act, except such person who shall occasionally perform the duty appertaining to any rector, vicar, or curate, without being the regular officiating minister of the parish or place in which such duty shall be performed.”
Volunteer officers.	“Case VIII.—Any effective officer commanding a volunteer corps, claiming and returning his exemption for not more than two horses, mares, or geldings, kept for his majesty's service in such corps.”
Officers and privates of volunteer cavalry.	“Case IX.—Any field officer, not being commandant, and any adjutant of any volunteer corps, and any person serving in any corps of yeomanry volunteer cavalry, or providing a horse, mare, or gelding, for any other person serving in any such corps, who shall be returned in the manner required by law as effective, and as having used any horse, mare, or gelding for such service, on the several days of muster and exercise of such corps; provided, in every such last-mentioned case, the exemption shall be claimed and returned in the manner required by the said last-mentioned act; and a certificate shall be delivered of such effective service in the manner required by the eleventh section of an act passed in the 44th year of the reign of his present majesty, intituled, ‘An Act to consolidate and amend the Provisions of the several Acts relating to Corps of Yeomanry and Volunteers in Great Britain, and to make further Regulations relating thereto.’”
44 Geo. 3, c. 54, s. 11.	
Soldiers.	“Case X.—Any non-commissioned officer or private of any of the regiments of cavalry, or in the artillery, for any horse used in his majesty's service.”

See 1 & 2 Wil. IV. c. 7, s. 4 & 5, containing further exemptions.

SCHEDULE (F.)—(Continued.)

3. *Of the Assessed Taxes themselves.*

For the provisions by the 1 Wil. IV. c. 35, s. 3 & 4, as to husbandry horses, see, *ante*, 1057.

By 4 & 5 Wil. IV. c. 73, s. 5, "Any rector, vicar, or curate actually doing duty in the church or chapel of which he is rector, vicar, or curate, (except such person who shall occasionally perform the duty appertaining to any rector, vicar, or curate, without being the regular officiating minister of the parish or place in which such duty shall be performed,) and any priest of the Roman Catholic faith who shall have duly taken and subscribed the oaths and declarations required by law, and any teacher or preacher of any separate congregation of Protestant dissenters whose place of meeting shall have been duly registered, such teacher or preacher having duly taken and subscribed the oaths and declarations required by law, and not following any secular occupation except that of a schoolmaster, shall respectively be exempt from the duties granted by any act or acts relating to the duties of assessed taxes for one horse, mare, gelding, or mule kept or used for the purpose of riding or of drawing any carriage not chargeable with duty; provided the person claiming such exemption shall not be possessed of an income of one hundred and twenty pounds per annum or upwards, whether arising from ecclesiastical preferment or otherwise, and shall not keep more than one horse, mare, gelding, or mule, which otherwise would be chargeable with duty under the said acts; and provided also, that such exemption shall be duly claimed in the manner hereinafter directed."

Clergymen and dissenting ministers, whose incomes are under 120*l.* a year, exempted from the duty on one riding horse.

Provisions by the 43 Geo. III. c. 161, relative to assessing the Duties on Horses.

By the 43 Geo. III. c. 161, s. 27, *ante*, 1002, persons who shall have kept any horses in the years ending on the days appointed for the commencement of the duties in the year 1804, are to return lists to the assessors, and be charged accordingly.

Sect. 39 gives directions for assessing persons keeping horses, who have no fixed residence, &c.

Regulations for assessing Stable-Keepers and others letting Horses, &c., to Hire.

By sect. 40, persons letting to hire horses so that the stamp-office duty shall not be chargeable thereon, are to deliver lists of the greatest number kept in any preceding year.

By sect. 41, hirers of horses where the stamp-office duty shall not be payable, are to return lists thereof.

By sect. 42, surveyors may surcharge in case of neglect of hirers in making returns, and the progressive duties for one year are to be charged on them, unless it be proved that the parties letting the same have been charged.

By sect. 43, stable-keepers, persons letting horses, &c., are to keep books containing entries of certain particulars.

By sect. 44, forms for entering such accounts are to be had at the Tax Office.

By sect. 46, game-keepers, by whom certificates of horses so let to hire shall be filed, and farmers of stamp-office duties, to permit surveyors to inspect them.

By sect. 47, lists of persons licensed to let post-horses are to be transmitted to Tax Office.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (G.), DUTIES ON DOGS.

[48 Geo. III. c. 55; 52 Geo. III. c. 93; 3 & 4 Wil. IV. c. 39; 4 & 5 Wil. IV. c. 73.]

"A SCHEDULE of the Duties payable on DOGS."

For every greyhound kept by any person, whether the same be his or her property, or the property of any other person or persons, the annual sum of	£0 8 6	Aggregate Duty.	£1 0 0
In addition to the duty of 11s. 6d. granted by the act passed in the 48th year of the reign of his present majesty			
For every hound, pointer, setting dog, spaniel, terrier, or lurcher, and for every other dog, where any person shall keep two or more dogs, of whatever description or denomination the same may be, except greyhounds, whether the same be the property of him, her, or them, or of any other person or persons, the annual sum of	0 2 6		0 5 0
In addition to the like duty granted by the said act			
For every other dog not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, kept by any person having one such other dog, and no more, whether the same be the property of him, her, or them, or any other person or persons, the annual sum of	0 1 0		0 8 0
In addition to the duty of 7s. granted by the said act			
For every pack of hounds, where the duty is compounded for, the annual sum of	2 0 0		36 0 0
In addition to the duty of 34l. granted by the said act			;

"The said duties to be paid by the persons respectively keeping such dogs, or having the same in his, her, or their custody or possession, whether the same be the property of him or them, or of any other person or persons, and not discovering the owner or owners thereof, who shall have been duly assessed for the same."

The 3 & 4 Wil. IV. c. 39, s. 7, exempts from payment of duty dogs *bonâ fide* employed by shepherds in the care of flocks in which they have a direct interest. And now 4 & 5 Wil. IV. c. 73, s. 10, exempts from duty, after 5th of April, 1834, all dogs *bonâ fide* kept for the care of sheep, provided no such dog shall be a greyhound, hound, pointer, setting-dog, spaniel, lurcher, or terrier.

"EXEMPTIONS from the Duties in Schedule (G.)"

Royal family.
Poor person.

"Case I.—Any dog belonging to his majesty, or any of the royal family."

"Case II.—Any person who, on account of poverty, shall be discharged from the assessment made in respect of his or her dwelling-house, in pursuance of the regulations of the said acts, relating to the said present duties, and having one dog, and no more, the same not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier."

Whelps.

"Case III.—Any person in respect of a dog or whelp which, at the time of returning the lists of dogs as by the said acts relating to the said present duties, shall not actually be of the age of six calendar months."

Packs of hounds
compounded for.

"Case IV.—Any person, in respect of the whole number of hounds by him or her kept in Great Britain, who shall compound for the same, in any year within thirty days after the fifth day of April in such year, in pursuance of notice given to the collector or collectors of the said duty for any parish or place where such person shall be liable to be assessed, of his or her intention so to do, and on payment of the full sum of 36l. sterling to such collector or collectors, for which a receipt shall be given within the period before mentioned."

"And where two or more persons join in keeping or using such hounds, then, in default of their compounding for the same, as aforesaid, any or all of the said persons shall be chargeable for every such hound kept by them or any of them."

SCHEDULE (G.), DUTIES ON DOGS—(Continued.)

By the 5 Geo. IV. c. 44, s. 5, occupiers of farms under 100*l.* per annum exempted from the duty on dogs *bonâ fide* kept for the care of sheep, *ante*, 1067.

See 3 & 4 Wil. IV. c. 39, s. 7, and 4 & 5 Wil. IV. c. 73, s. 10, *ante*, 1074.

Provisions by the 43 Geo. III. c. 161, respecting Duties on Dogs.

By the 43 Geo. III. c. 161, s. 27, persons keeping dogs are to return lists thereof and be charged accordingly.

Sect. 39 gives directions for assessing persons keeping dogs, and who have no fixed residence.

SCHEDULE (H.), DUTIES ON HORSE-DEALERS.

[43 Geo. III. c. 161; 52 Geo. III. c. 93.]

“ A SCHEDULE of the Duties payable by HORSE-DEALERS.”

Every person who shall use or exercise the trade and business of a horse-dealer, within the cities of London and Westminster, and the liberties of the same respectively, the parish of St. Mary-le-Bone and St. Pancras, in the county of Middlesex, the weekly bills of mortality, or the borough of Southwark, in the county of Surrey, the annual duty of	£2 10 0	} Aggregate Duty. £25 0 0
In addition to the duty of 2 <i>l.</i> 10 <i>s.</i> granted by the act passed in the 48th year of the reign of his present majesty		
Every person who shall use or exercise the trade and business of a horse-dealer in any other part of Great Britain, the annual duty of	1 5 0	} 12 10 0
In addition to the duty of 1 <i>l.</i> 5 <i>s.</i> granted by the said act		

By the 59 Geo. III. c. 13, s. 4, it is enacted, “ that, from and after the fifth day of April, 1819, all mares which shall be kept for the sole purpose of breeding shall, whilst so kept, be wholly exempt from duty ; and that all persons shall and may sell any horses which shall have been bred by them or kept by them as farming stock upon lands in their occupation, for the space of three months at the least, without being liable to be assessed to the duties payable by horse-dealers ; any thing in any act or acts to the contrary notwithstanding.”

Mares kept for breeding exempted ; and horses bred by seller, &c.

Provisions by the 43 Geo. III. c. 161, regulating the Duties on Horse-Dealers.

By the 43 Geo. III. c. 161, s. 27, persons having exercised the business of a horse-dealer for the period within mentioned, are to give notice thereof and be assessed accordingly.

By sect. 43, horse-dealers are to enter account of horses sold in books, to be inspected by the assessors, &c.

By sect. 4, proper forms for such accounts are to be had at the Tax Office.

By sect. 48, horse-dealers, trading at different places, are to deliver returns at each, and declare where they will be charged.

3. *Of the As-
sessed Taxes
themselves.*

SCHEDULE (I.), DUTIES ON HAIR-POWDER WEARERS.

[43 Geo. III. c. 161; 48 Geo. III. c. 55; and 52 Geo. III. c. 93.]

52 Geo. 3, c. 93.

“ A SCHEDULE of the Duties payable by Persons in respect of HAIR-POWDER used or worn by them.”

By every person who shall have used or worn any hair-powder within the period limited by any of the acts herein mentioned, the annual sum of	} £. s. d. 1 3 6
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“ RULES for Charging the said Duties.

How chargeable.

“ I.—The said rate or duty to extend to every sort or composition of powder used or worn by any person as an article of, or in, or about, his or her dress, by whatever name the same shall be distinguished, and to be assessed upon and paid by the person having used or worn the same within the year preceding the term for which the assessment ought to be made, except as hereinafter mentioned.”

Daughters
unmarried.

“ II.—The unmarried daughters of any person shall not be chargeable with the said last-mentioned duties by this act made payable, or with the duties payable at the time of passing this act, or be required to make any return under this act, or the acts in force at the time of passing this act, provided the parent of such daughters shall have more than two unmarried daughters, and shall have given an account in any list by him or her delivered under this act, or the acts now in force, of the whole number of such daughters, and shall have required to be assessed and charged for the whole number by one assessment, in which case every such parent shall be assessed and charged in respect to the whole number of such daughters in twice the sum so payable on any single person for his or her having worn hair-powder, which shall exempt the whole number of daughters from the said duties, and each of them; and that neither the person giving such account, or any of the persons returned in such account, in respect of whom such charge shall be made, shall in such case be liable to any of the penalties imposed by this act, or the acts now in force, by reason of the duty not being paid for the whole number of such daughters.”

Servants.

“ III.—The master or mistress of any servant who shall have declared his or her intention to pay the duty which may be charged or chargeable as aforesaid in respect of such servant, and shall, in any list or lists returned by him or her, have given a true account of all the servants by him or her kept, in respect of whom such duty shall be payable, setting forth the several capacities in which such servants are respectively kept, shall be charged for such servant or servants; and in every such case, every such servant shall be deemed and construed to be exempted from the said duties during his, her, or their continuance in the same service; and also every servant, who shall come into the service of such master or mistress, in the room of such servant named therein, to serve in the same capacity during the year in which the duty shall be so charged; and no servant named in such list or lists, or any servant serving such master or mistress in any capacity mentioned in such list or lists, shall, during the year for which such duty shall be charged, be required for himself or herself to make any such return, or to pay the said duties, or either of them, nor be liable to any penalty by reason of not making any such return, or not paying the said duty.”

“ EXEMPTIONS from the said Duties.

Royal family.

“ I.—Any of the royal family, and any of the menial servants of his majesty or any of the royal family.”

Naval and mili-
tary officers.

“ II.—Any officer in actual employ in his majesty's navy, under the rank of commander; or any officer holding a commission in his majesty's navy under the said rank, who shall be employed on the establishment of the royal hospital at Greenwich; or any subaltern or non-commissioned officer or private man belonging to any regiment in the army, artillery, militia, division of marines, or corps of engineers; or any person enrolled and actually serving in any volunteer corps or body of men associated for the defence of any city, town, or place, and for maintaining public tranquillity and good order within the same, whether of infantry or cavalry, which now are or hereafter shall be raised; provided that every such person enrolled and serving as aforesaid, so claim-

Soldiers.

Volunteers.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (I.)—(Continued.)

ing to be exempted, shall make such return as by this act is directed,* with respect to the claim of exemptions; provided, that every such claim shall be proved by the certificate of the commanding officer of the corps, in the form in the schedule to this act annexed, marked (N.), and according to the regulations of this act in other cases of exemption by such volunteers."

"III.—Any clergyman who shall not be possessed of an annual income of 100*l.* or upwards, whether arising from ecclesiastical preferment or otherwise; or any preacher or preachers of any congregation of dissenters, or any person dissenting from the Church of England, in holy orders, or pretended holy orders, who now is, or at any time hereafter shall be entitled to the benefit of the statute made in the first year of the reign of the late King William and Queen Mary, intituled, 'An Act for exempting their Majesties' Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws;' or of the statute made in the nineteenth year of the reign of his present majesty, intituled, 'An Act for the further Relief of Protestant Dissenting Ministers and Schoolmasters;' or of the statute made in the thirty-first year of the reign of his present majesty, intituled, 'An Act to reliveve, upon Conditions, and under Restrictions, the Persons therein described, from certain Penalties and Disabilities to which Papists, or Persons professing the Popish Religion, are by Law subject,' and who shall not be possessed of an annual income of 100*l.* or upwards, however arising; and the income arising from any benefice or benefices shall be estimated on the average amount thereof, computed on the period of seven years next preceding that on which such exemptions shall be claimed."

Clergymen, &c.

1 W. & M. st. 1, c. 18.

19 Geo. 3, c. 44.

31 Geo. 3, c. 32.

SCHEDULE (K.), ARMORIAL BEARINGS.

[48 Geo. III. c. 55; 52 Geo. III. c. 93.]

"A SCHEDULE of the Duties payable by Persons in respect of any Armorial Bearing or Ensign, used or worn by them, by whatever name the same shall be called."

52 Geo. 3, c. 93.

	£.	s.	d.
By every such person chargeable with any duty made payable by this act, for any coach or other carriage, the annual sum of	2	8	0
By every such person not chargeable for any such coach or other carriage, but who shall be chargeable to any of the duties on inhabited houses, or to the duties on houses, windows, or lights, made payable by this act, the annual sum of	1	4	0
By every such person not chargeable for any such coach or other carriage, not being chargeable to the said duties on inhabited houses, or to the duties on houses, windows, or lights, the annual sum of	0	12	0

"The said duties to be paid by every person having used or caused to be used any armorial bearing or ensign, by whatever name the same is or shall be called, within the year preceding the term for which the assessment ought to be made, and to extend to every person who within the said period shall have been possessed of, or shall have kept or had any coach or other carriage chargeable with the duty by this act, or any seal, plate, or other article, on which carriage, seal, plate, or other article, any armorial bearing or ensign is or shall have been, during the said period, painted, engraved, marked, or affixed, and whether such armorial bearing or ensign shall be registered in the College of Arms or not."

"EXEMPTIONS from the said Duties as set forth in Schedule (K.)"

"Any of the royal family; or any person who shall, by right of office or by appointment, have worn or used any of the arms or insignia worn or used by the royal family, or used in any city, borough, or town corporate, in that part of Great Britain before described."

Royal family.

Public officers.

3. *Of the Assessed Taxes themselves.*

SCHEDULE (K.), ARMORIAL BEARINGS—(Continued.)

Provisions by the 43 Geo. III. c. 161, respecting the Assessment of Duties for wearing Hair-Powder and Armorial Bearings.

By the 43 Geo. III. c. 161, s. 27, persons having worn hair-powder or armorial bearings are to return lists to the assessors, and be charged accordingly.

SCHEDULE (L.), DUTIES FOR KILLING GAME.

[48 Geo. III. c. 55; 52 Geo. III. c. 93, and id. Rule XIII.; 54 Geo. III. c. 141; 5 Geo. IV. c. 44, s. 7.]

“ A SCHEDULE of the Duties payable in respect of Killing GAME.”

Upon every person who shall use any dog, gun, net, or other engine, for the purpose of taking or killing any game whatever, or any woodcock, snipe, quail, or landrail, or any coneys, or shall take or kill, by any means whatever, or shall assist in any manner in the taking or killing, by any means whatever, any game, or any woodcock, snipe, quail, or landrail, or any coney, by virtue of any deputation or appointment, duly registered or entered as game-keeper, for any manor or royalty in England, Wales, or Berwick-upon-Tweed, or for any lands in Scotland :	
If such person shall be a servant to any person duly charged in respect of such servant to the duties granted on servants in Schedule (C.), No. 1, there shall be charged in respect of every such person acting by virtue of such deputation or appointment, the annual sum of (a) £0 4 0	Aggregate Duty. £1 5 0
In addition to the duty of 1 <i>l.</i> 1 <i>s.</i> granted in respect of such person by the act passed in the 48th year of the reign of his present majesty	
And where the duty granted by the said act shall not be chargeable in respect of such person, the annual sum of	1 5 0
And if such person as last aforesaid shall not be a servant for whom the said duties on servants shall be charged, there shall be charged in respect of every such person acting by virtue of such deputation or appointment, the annual sum of 0 10 6	3 13 6
In addition to the duty of 3 <i>l.</i> 3 <i>s.</i> granted by the said act	
And where the duty granted by the said act shall not be chargeable in respect of such person, the annual sum of	3 13 6
Upon every other person who shall use any dog, gun, net, or other engine, for any of the purposes before mentioned, or shall take or kill, by any means whatever, or assist in any manner in the taking or killing, by any means whatever, any game, or any woodcock, snipe, quail, or landrail, or any coney, there shall be charged the annual sum of 0 10 6	3 13 6
In addition to the like duty of 3 <i>l.</i> 3 <i>s.</i> granted by the said acts	
And where the duty granted by the said act shall not be chargeable upon such person the annual sum of	3 13 6

“ EXCEPTIONS to the above Duties.

“ I.—The taking of woodcocks and snipes with nets or springs.”

“ II.—The taking or destroying of coneys by the proprietors of warrens, or on any inclosed ground whatever, or by the tenants of lands, either by himself, herself, or themselves, or by his, her, or their direction or command.”

(a) By 2 & 3 Wil. IV. c. 113, s. 8, sioners of woods and forests are not to be game-keepers appointed by the commis- liable to this duty.

SCHEDULE (L.) GAME CERTIFICATES—(Continued.)

3. *Of the Assessed Taxes themselves.*

“ RULES for Charging the said last-mentioned Duties.

“ I.—Every person who intends to use, or shall use, at any time after the fifth day of April, 1813, any dog, gun, net, or other engine, for any of the purposes mentioned in the schedule to this act annexed, marked (L.), shall, before he shall so use the same, in any year, and every person who intends to take or kill, or to (a) assist in the taking or killing any game, woodcock, snipe, quail, landrail, or coney, shall, before he shall so take or kill, or assist in the taking or killing the same, pay, or cause to be paid, in each year, unto the collectors of the duties mentioned or referred to in the other schedules of this act, for the parish, ward, or place, where he shall reside, if in England, or to the collector of the like duties, or his deputy or sub-collector for the shire, county, borough, or place, where he shall reside, if in Scotland, or one of them, respectively, as aforesaid, for the time being, the duty hereby made payable, and shall obtain a certificate thereof in the manner herein directed, which certificate shall continue in force until and upon the fifth day of April next after the time of issuing the same, and no longer.”

Duty for using dogs, &c. paid to collectors of assessed taxes annually.

“ II.—Every collector, or his deputy or sub-collector, on application to him made by any person residing within the limits of his collection, and on payment to such collector, or his deputy or sub-collector, of the duty hereby made payable, shall give a receipt for the same, which receipt shall be signed by such collector, or his deputy or sub-collector, and made out conformable to such of the forms for certificates in the schedules to this act annexed as the case may require; and every such receipt shall be a charge on the parish or place for which such collector, or his deputy or sub-collector, shall be appointed, for the sum therein expressed, in like manner and to the like effect, as if the said sum had been previously assessed and levied by such collector, or his deputy or sub-collector, under the warrant of the commissioners acting in the execution of this act, for which receipt the said collector, or his deputy or sub-collector, shall be entitled to demand and receive from such person the sum of one shilling over and above the said duty, and no more, which sum shall be deemed the compensation to such collector and his deputy, or sub-collector, for his pains and care in executing this act; and the duty so received shall be paid to the receiver-general or his deputy, at his or their next receipt of duties, in full and without deduction; provided that the receipts given for the duties contained in this schedule shall not be liable to any stamp duty whatever.”

Collectors to give receipts.

Fee.

“ III.—Every such receipt, being delivered to the clerk of the commissioners acting for the district where the person aforesaid shall reside, shall be exchanged for a certificate made out in one of the forms in the schedule to this act annexed, marked (N.), corresponding with such receipt, which certificate the said clerk is hereby required, on demand, to make out and deliver gratis to such person, in exchange for the said receipt.”

Receipts exchanged for certificates by clerk to commissioners.

“ IV.—The said receipts, so exchanged, shall severally be entered by the said clerks respectively, in books to be kept for that purpose, in the manner to be directed by the commissioners for the affairs of taxes; and the said books, together with the said receipts, being exhibited to the commissioners acting in the execution of this act for the district, and examined by them, shall be a sufficient authority to them, from time to time, to cause an assessment to be made on the several persons mentioned in such receipts in the respective sums paid by them, which assessments shall be of the like force and effect in all respects, and shall be as binding on the several collectors and others acting in the execution of this act, and on the several parishes and places for which such collectors shall have been respectively appointed, as any assessment to

Commissioners to assess parties accordingly.

(a) “ By the 54 Geo. III. c. 141, the duties, provisions, and penalties, contained in the said schedule of the said act, as relates to *persons aiding or assisting*, or intending to aid or assist, in the taking or killing of any game, or any woodcock, snipe, quail, landrail, or coney, in the manner hereinafter mentioned, shall, from and after the passing of this act, severally cease and determine; provided that the act of aiding and assisting as aforesaid, and in the said act mentioned, shall be done in the company or presence and for the use of another person, *who shall duly have obtained a certificate in his own right*, according to the directions of the said act, and who therein shall by virtue of such certificate then and there use his own dog, gun, net, or other engine, for the taking or killing of such game, woodcock, snipe, quail, landrail, or coney, and who shall not act therein by virtue of any deputation or appointment.”

3. *Of the Assessed Taxes themselves.*

SCHEDULE (L.) GAME CERTIFICATES—(Continued.)

Commissioners to provide forms of receipts and certificates.

be made by the said commissioners respectively, under the regulations of the said acts under which they act as commissioners; and the said commissioners shall return duplicates thereof to the receiver-general, and to the commissioners for the affairs of taxes, in the manner directed by the said acts."

" V.—The commissioners for the affairs of taxes shall cause a sufficient number of receipts to be distributed amongst the several clerks, and by them to their several collectors in their respective districts; and the said clerks respectively shall be accountable to the said commissioners for the affairs of taxes for the same; and the several collectors shall be accountable to the respective clerks for the receipts delivered to them respectively; and the said commissioners for the affairs of taxes shall also cause a sufficient number of forms to be used for certificates, according to the forms specified in the schedule to this act annexed, marked (N.), to be distributed to the respective clerks in like manner, for which certificates the said clerks shall be respectively accountable to the said commissioners for the affairs of taxes."

Where no clerk, surveyor to act.

" VI.—In any district wherein no clerk shall be appointed to act in the execution of the said acts, the surveyor of the same district shall execute the duty of such clerk in all matters and things herein required to be done by such clerk, and in every such case the certificates herein required shall and may be issued by such surveyor, according to the directions of this act; and in every place for which one collector only shall be appointed, who shall be chargeable to the duty contained in this schedule, an acknowledgment in writing under the hand of such collector, that he is chargeable with the said duty, and delivered to such clerk or surveyor respectively as aforesaid, shall be a sufficient authority for such clerk or surveyor to issue a certificate to such collector, and to make an assessment of the said duty upon such collector as in other cases under this act."

How collector charged with duty if liable.

Game-keepers' certificates.

" VII.—Every master or mistress charged, or liable to be charged to the duties on servants mentioned in the said schedule marked (C.), No. 1, annexed to this act, in respect of any game-keeper, whether such person shall have been deputed or appointed by such master or mistress, or by any other person or persons; and every person granting a deputation or appointment to the servant of any other person, who shall be duly charged to the said duty on servants in respect of such servant, whether as game-keeper or in any other capacity, with power and authority to take or kill any game by any of the ways described in this schedule, shall be at liberty to obtain a receipt and certificate on behalf of such servant, on payment of the duty for the same in the manner before directed; and such receipt and certificate shall be a sufficient authority to assess the master or mistress, or person granting such deputation or appointment, and obtaining such receipt and certificate as aforesaid, and the certificate to be issued thereupon shall be deemed and construed to exempt the servant or servants named therein, during his or their continuance in the same capacity and service; and also to exempt any servant or servants of the same master or mistress who shall succeed to the deputation or appointment of the same manor or royalty, or lands, within the year for which the duty shall be so assessed, for and during the remainder of such year; and no such servant in whose behalf a receipt and certificate hath been duly obtained as aforesaid shall be required to obtain a certificate for himself, nor be liable to the duty hereby granted, nor to any penalty by reason of not obtaining a certificate in his own name, or for not paying the said duty; provided always, that every certificate granted under this act to any person acting under any deputation or appointment shall, upon the revocation of such deputation or appointment, be from thenceforth void and of no further effect, as to the person therein deputed or appointed; provided, that if any lord or lady of any manor in England, Wales, or Berwick-upon-Tweed, or proprietor of lands in Scotland, shall, on the revocation of any deputation or appointment, by virtue of which a certificate hath been granted for any year, make a new deputation or appointment within the same year, to any person in his or her service, or in the service of the same master or mistress, who shall have been charged, as well to the duties on servants as to the game duties granted by this act, it shall be lawful for the clerk to the commissioners of the district, and every such clerk is hereby required, in such case, to renew the certificate for the remainder of that year, in behalf of the person so newly appointed, without any duty or fee, by indorsing on such certificate the name and place of abode of the person to whom such last-mentioned deputation or appointment had been granted, and declaring the same to be a renewed certificate, free of duty or fee."

Commissioners to advertise lists.

" VIII.—The commissioners for the affairs of taxes shall, once or oftener in every year, as soon as conveniently may be after such certificates shall have been issued,

SCHEDULE (L.) GAME CERTIFICATES—(Continued.)

3. Of the Assessed Taxes themselves.

cause the names and residences of the several persons to or for whom such certificates have been granted for that year, in each county in Great Britain, distinguishing the persons acting under any deputations or appointments from others; and the manors, royalties, or lands, for which deputations or appointments have been granted, and also distinguishing the rate of duty assessed, to be inserted in some newspaper circulated in each respective county, or in such other newspaper, and in such manner, as to them shall seem proper."

"IX.—Neither the assessment of the duty hereby imposed, nor the payment thereof, nor the certificate delivered, nor any thing herein contained or done in pursuance of this act, shall authorize or enable any person to act in the manner described in this schedule, at any time or times, or in any manner prohibited by any statute in force at and immediately before the passing of this act; nor unless such person shall be duly qualified so to do, under and by virtue of the said statutes; and all penalties and forfeitures, actions and suits, for offences against such statutes, shall and may be prosecuted and maintained for such offences, as if this act had not been made."

Unqualified persons not protected by certificate, &c.

"X.—No assessment or certificate under the said acts and this act, or payment of the duty thereby imposed, by or for any person acting under a deputation or appointment, shall be received in evidence, or be available in law or equity, in any suit or prosecution, under this act, where proof shall be given of doing or having done any act for any of the purposes mentioned in this schedule, out of the precincts or limits of the manor, royalty, or lands for which such deputation or appointment was made or granted" (a).

Game-keepers' certificates confined to manor.

"XI.—If any person shall be discovered doing any act whatever, in respect whereof such person shall be chargeable as aforesaid, by any assessor or collector of the parish where any such person shall then be, or by any commissioner for the execution of this act, acting for the county, riding, division, or place, in which such person shall then be, or by any lord or lady, or game-keeper, of the manor, royalty, or lands, wherein such person shall then be, or by any inspector or surveyor of taxes, acting in the execution of the said acts or this act, for the district in which such person shall then be, or by any person duly assessed to the duties granted in this schedule, or consolidated therewith, or by the owner, landlord, lessee, or occupier of the land in which such person shall then be, it shall be lawful for such assessor, collector, commissioner, or gamekeeper, inspector, or surveyor, or other person as aforesaid, or such owner, landlord, lessee, or occupier of land as aforesaid, to demand and require from the person so acting, the production of a certificate issued to him for that purpose, which certificate every such person is hereby required to produce to the person so demanding the same, and to permit him to read the same, and (if he shall think fit) to take a copy thereof, or any part thereof; or in case no such certificate shall be produced to the person demanding the same as aforesaid, then it shall be lawful for the person having made such demand, to require the person so acting forthwith to declare to him his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed to the duties by this act granted or consolidated therewith; and if any such person shall, after such demand made, wilfully refuse to produce and show a certificate issued to him for that purpose, or in default thereof as aforesaid, to give in to the person so demanding the same his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed, or shall produce any false or fictitious certificate, or give any false or fictitious name, place of residence, or place of assessment, every such person shall forfeit and pay the sum of 20*l.*, to be sued for, recovered, and applied in the manner hereinafter directed."

Certificates produced by persons on demand of assessor, &c.

Penalty.

"XII.—If any person or persons shall, after the fifth day of April, 1813, in England or Wales, or after the twenty-fourth day of May, 1813, in Scotland, do any act for any of the purposes mentioned in this schedule, without having obtained such certificate as is directed by this act, in order to an assessment for the year wherein such person or persons shall so act, every such person shall forfeit and pay the sum of 20*l.*, to be sued for, recovered, and applied in the manner hereinafter directed; and every such offender shall also be liable to the payment to his majesty, his heirs or successors, to the full duty of 3*l.* 13*s.* 6*d.* sterling, over and above the said penalty to be charged in the assessment of the parish or place where the offence shall be committed, by way of increased charge by the inspector or surveyor of the said parish or place; which in-

Acting without certificate.

Penalty.

(a) The stat. 52 Geo. III. c. 93, (Schedule L. XI.) says, the penalty of 20*l.* shall be sued for, recovered, and applied in manner thereafter directed.

3. *Of the As-
sessed Taxes
themselves.*

SCHEDULE (L.), GAME CERTIFICATES—(Continued.)

Appeal.

Offences, before
whom deter-
mined, &c.

creased charge may be made at any time within six calendar months after the duty shall have accrued, and the said charge shall be allowed by two commissioners according to the directions of the acts relating to the duties of assessed taxes, subject to appeal whenever such commissioners shall appoint the time and place for hearing and determining the said appeal."

" XIII.—It shall be lawful for any two commissioners for executing this act, or for any one justice of the peace of the county, riding, or division, or the shire or stewartry, or for any city, borough, liberty or place wherein any offence or offences mentioned or described in this schedule shall be committed, such justice being also a commissioner for executing this act; and he and they is and are hereby required, upon information or complaint to him or them made of any such offence or offences committed within the district where he or they shall act as such commissioner or commissioners, within three calendar months after the offence shall be committed, to summon the person or persons accused, and also the witnesses on either side, to appear before him or them; and upon the appearance of the person or persons accused, or in default of his or their appearance according to such summons, to proceed to hear and determine the matter in a summary way; and, upon due proof made thereof, either by the voluntary confession of the person or persons accused, or by the oath of one or more credible witness or witnesses, to give judgment for the penalty or penalties, or for such part thereof, to which part thereof the said commissioners or justice shall think proper to mitigate the same (the same not being in any case mitigated to less than one moiety of the said penalty or penalties); and, in default of payment of the same at the time of conviction, to award and issue his or their warrant or warrants, under his or their hand and seal, or hands and seals, for levying the penalty or penalties so adjudged, together with the reasonable costs and charges attending the same, as hereinafter directed, of the cattle, goods, and chattels, of the offender or offenders, and to cause sale to be made of the said cattle, goods, and chattels so distrained, in case they shall not be redeemed within four days; and the money arising from such sale shall in the first place be liable for payment of the said penalty or penalties adjudged to be paid, and in the next place for payment of the costs attending the information, conviction, and warrant, or informations, convictions, and warrants, to be settled by the said commissioners or justice, and indorsed on such warrant or warrants; and also the reasonable costs attending the distress and keeping the goods and chattels distrained, and maintaining the cattle, if any, during the four days allowed to redeem the same; and also the expense of the sale thereof, and of returning the said warrant or warrants to the commissioners or justice, and entering the same, with an indorsement thereon of what has been done therein; and where sufficient cattle, goods, or chattels of such offender or offenders cannot be found, to commit such offender or offenders to the house of correction, there to remain for any space of time not exceeding six calendar months, unless the said penalty or penalties shall be sooner paid; and if such person or persons shall find himself or themselves aggrieved by the judgment of such commissioners or justice, then he or they shall and may, upon giving security to the amount of double the said penalty or penalties, appeal to the justices of the peace at the next general quarter sessions for the county, riding, or division, or to the justice clerk, or other officer of the court of justiciary of the shire, stewartry, city, liberty, or place, in Scotland; which courts respectively are hereby empowered to examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment of such commissioners, or justice or justices, shall be affirmed, it shall be lawful for the said court of quarter sessions, or court of justiciary, to award the person or persons to pay costs occasioned by such information, conviction, and appeal, as to themselves shall seem meet."

Witnesses not at-
tending.

Penalty.

Form of convic-
tion.

" XIV.—If any person or persons shall be summoned as a witness or witnesses to give evidence before such commissioners or justice receiving such information, or before the courts of quarter sessions or justiciary, upon appeal touching any of the matters contained in such information, either on the part of the prosecution or the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for his, her, or their neglect, or refusal, to be allowed by the commissioners, or justice or justices, or court before whom the prosecution shall be depending, then and in every such case every such person shall forfeit for every such offence the sum of 10*l*., to be recovered, levied, and paid in such manner, and by such means, as other penalties mentioned in this schedule may be recovered, levied, and paid."

" XV.—The commissioners or justice before whom any offender shall be convicted

3. Of the Assessed Taxes themselves.

Conviction to be entered.

Application of penalties.

"Any of the royal family."

The inspectors and surveyors may, without a previous proceeding for the penalty, charge in single duty persons omitting to take out game certificates.

How charge to be made.

3. *Of the Assessed Taxes themselves.*

52 Geo. 3, c. 93.
Offences before
whom determined,
&c. (a).

Costs.

Commitment.

Appeal to the
sessions, &c.

Rules for
charging.

pector or surveyor, and appeals therefrom heard and determined under the said acts; anything therein contained to the contrary notwithstanding."

By stat. 52 Geo. III. c. 93, *Rule XIII.*, it shall be lawful for any *two commissioners* for executing this act, or for any *one justice of the peace* of the county, riding, or division, or the shire or stewartry, or for any city, borough, liberty, or place wherein any offence or offences mentioned or described in this schedule shall be committed, *such justice being also a commissioner for executing this act*; and he and they is and are hereby required, upon information or complaint to him or them made of any such offence or offences committed within the district where he or they shall act as such commissioner or commissioners, within three calendar months after the offence shall be committed, to summon the person or persons accused, and also the witnesses on either side, to appear before him or them; and upon the appearance of the person or persons accused, or in default of his or their appearance according to such summons, to proceed to hear and determine the matter in a summary way; and upon due proof made thereof, either by the voluntary confession of the person or persons accused, or by the oath of one or more credible witness or witnesses, to give judgment for the penalty or penalties, or for such part thereof, to which part thereof the said commissioners or justice shall think proper to mitigate the same (the same not being in any case mitigated to less than one moiety of the said penalty or penalties); and in default of payment of the same at the time of conviction, to award and issue his or their warrant or warrants, under his or their hand and seal, or hands and seals, for levying the penalty or penalties so adjudged, together with the reasonable costs and charges attending the same as hereinafter directed, of the cattle, goods, and chattels of the offender or offenders, and to cause sale to be made of the said cattle, goods, and chattels so distrained, in case they shall not be redeemed within four days; and the money arising from such sale shall, in the first place, be liable for payment of the said penalty or penalties adjudged to be paid, and in the next place for payment of the costs attending the information, conviction, and warrant, or informations, convictions, and warrants, to be settled by the said commissioners or justice, and indorsed on such warrant or warrants; and also the reasonable costs attending the distress and keeping the goods and chattels distrained, and maintaining the cattle, if any, during the four days allowed to redeem the same, and also the expense of the sale thereof, and of returning the said warrant or warrants to the commissioners or justice, and entering the same, with an indorsement thereon of what has been done therein; and where sufficient cattle, goods, or chattels of such offender or offenders cannot be found, to commit such offender or offenders to the house of correction, there to remain for any space of time not exceeding six calendar months, unless the said penalty or penalties shall be sooner paid; and if such person or persons shall find himself or themselves aggrieved by the judgment of such commissioners or justice, then he or they shall and may, upon giving security to the amount of double the said penalty or penalties, appeal to the justices of the peace at the next general quarter sessions of the county, riding, or division, or to the justice clerk, or other officer of the court of justiciary of the shire, stewartry, city, liberty, or place in Scotland; which courts respectively are hereby empowered to examine witnesses upon oath, and finally to hear and determine the cause; and in case the judgment of such commissioners, or justice or justices, shall be affirmed, it shall be lawful for the said court of quarter sessions, or court of justiciary, to award the person or persons to pay costs occasioned by such information, conviction, and appeal, as to themselves shall seem meet (a).

(a) The whole of this is inserted, *verbatim*, in p. 1082, *Rule XIII.*, and has been here repeated by accident.

SCHEDULE (M.), EXEMPTIONS.

[48 Geo. III. c. 55; and 52 Geo. III. c. 93.]

No. 1.

“Further EXEMPTIONS from the several Duties in the several Schedules marked (C.), (D.), (E.), and (G.)”

“All persons having ordinarily resided in Ireland before the commencement of the session of parliament in the fifty-second year of the reign of his present majesty, and being members of either house of the parliament of the United Kingdom, whether on the part of Ireland, or for any place in Great Britain, and all persons who shall hereafter be members of the said parliament as aforesaid, and who shall have ordinarily resided in Ireland previous to the commencement of the session of parliament in which they shall respectively serve in parliament; and all persons having ordinarily resided in Ireland as aforesaid, or who shall hereafter be ordinarily resident therein, and now holding or who shall hereafter hold offices of public employments in Ireland, and are now residing in Great Britain, or who shall hereafter reside in Great Britain, with the approbation or by the order or direction of the lord lieutenant, or other chief governor or chief governors of Ireland for the time being, or of his or their chief secretary for the time being, and which shall be certified under the hand of the lord lieutenant, or chief governor or chief governors, or his or their chief secretary, to be therein resident for the purposes of assisting in the execution of public business, shall be wholly discharged and exempted from the duties set forth in the schedules to this act annexed, marked (C.), (D.), (E.), and (G.); provided that this exemption shall not extend to any person ordinarily resident in Ireland as aforesaid, being a member of either house of parliament of the United Kingdom, who hath resided or shall reside in Great Britain longer than during the session of parliament, and forty days before and forty days after each session, nor to any article on which a duty is by this act made payable, which shall be retained, kept, employed, or used by such person in Great Britain, during the residence of such person in Ireland; provided also, that this exemption shall not extend to any person ordinarily resident in Ireland as aforesaid, holding an office or public employment in Ireland, unless the approbation in writing, or such order or direction of the said lord lieutenant, or other chief governor or chief governors of Ireland for the time being, or of his or their chief secretary for the time being, and a description of the place of abode in Great Britain of the persons respectively holding such offices or employments, shall have been before the passing of this act delivered into the office of the commissioners for the affairs of taxes in Somerset Place, or shall be so delivered within twenty days after the passing of this act, with respect to persons then in Great Britain, or within thirty days after the arrival in Great Britain of such persons respectively, who shall thereafter arrive: provided, also, that no person shall, for the purposes of claiming this exemption, be deemed to be ordinarily resident in Ireland, unless he shall reside therein during such portion of the year as is not covered by the privilege herein provided: and, for the better ascertaining the fact of such residence, every person claiming the benefit of this exemption shall verify the same upon oath (if required), before the commissioners acting in the execution of this act, in the district where such person shall reside.”

Irish members of parliament and public officers.

Oath.

No. 2.

“Further EXEMPTIONS from the several Duties in the several Schedules marked (C.), (D.), and (E.)

“Any sheriff of any county, or mayor or other officer in any corporation or royal burgh, serving an annual office therein, who, during such year of service, shall have kept or shall keep any number of servants, carriages, or horses, greater than the number such person was assessed to prior to the year of such service, and who shall have been assessed for such greater number for one year, shall be exempt from further assessment for such greater number for any other year, although such year of service may have run into a second year of assessment.”

3. *Of the Assessed Taxes themselves.*

48 Geo. 3, c. 55.
50 Geo. 3, c. 104.

48 Geo. 3, c. 42.

Persons paying the duties for servants, &c., in Great Britain, not liable to pay for same establishment in Ireland.

Persons paying in Ireland shall only be liable for amount of duty in Great Britain.

Periods at which the respective duties commence.

Persons claiming exemption in Great Britain to

By the 51 Geo. III. c. 72, intituled, "An Act for granting Exemptions in certain Cases from the Payment of the Duties charged in respect of Servants, Carriages, Horses, and Dogs, kept in Great Britain and Ireland respectively;" after reciting that "whereas, by certain acts passed in the forty-eighth and fiftieth years of the reign of his present majesty, certain duties are granted to his majesty on male servants, carriages, horses for riding or drawing the said carriages, and on dogs, to be annually assessed and paid throughout Great Britain, which duties are placed under the management of the commissioners for the affairs of taxes in Great Britain: and whereas, by a certain act passed in the same forty-eighth year of the reign of his present majesty, certain duties are also granted to his majesty on male servants, carriages, horses for riding or drawing the said carriages, and on dogs, to be annually levied and paid throughout Ireland, which last-mentioned duties are placed under the management of the commissioners of inland excise and taxes in Ireland; and whereas it is just and reasonable that persons residing partly in Great Britain and partly in Ireland should not pay the duties granted by the said several acts for [the same establishment of servants, carriages, horses, and dogs, in the same year in both parts of the United Kingdom;" it is enacted, "that every person who shall have paid the said duties so payable in Great Britain, in respect of any such servants, carriages, horses, or dogs, for the period of one whole year, who shall also at any time within the same year, as hereinafter is provided, be charged to the said duties so payable in Ireland, for his or her servants, carriages, horses, or dogs, kept in Ireland (the said servants, carriages, horses, or dogs, so kept in Ireland, being either the same servants, carriages, horses, or dogs, which are so charged in Great Britain in such year, or servants in the same capacities, or carriages, horses, or dogs of the same descriptions, chargeable in Great Britain with the like duties, and kept in lieu of such of the said servants, carriages, horses, or dogs, as have been *bonâ fide* parted with), shall be wholly exempted from payment in Ireland for one year of the duties so charged thereon, in respect of each and every of the said servants, carriages, horses, and dogs, kept in Ireland; and every person who shall have paid the said duties so payable in Ireland, in respect of any such servants, carriages, horses, or dogs, for one year, who shall at any time within the same year, as hereinafter is provided, be charged to the said duties so payable in Great Britain, for his or her servants, carriages, horses, or dogs, kept in Great Britain, the said servants, carriages, horses, or dogs, so kept in Great Britain, being either the same servants, carriages, horses, or dogs, which are so charged in Ireland in such year, or servants in the same capacities, or carriages, horses, or dogs of the same descriptions, chargeable in Ireland with the like duties, and kept in lieu of such of the servants, carriages, horses, or dogs, as have been *bonâ fide* parted with, shall be exempted from payment in Great Britain, for one year, of so much of the said duties so charged thereon as the duty paid in Ireland in respect of each and every of the same servants, carriages, horses, and dogs, kept in lieu thereof respectively as aforesaid, shall amount unto, provided that due proof shall be made of such payments in Great Britain or Ireland respectively in the manner hereinafter directed."

Sect. 2. "And whereas the said duties payable in Great Britain are chargeable yearly, from the fifth day of April in each year, and the said duties payable in Ireland are chargeable yearly, from the fifth day of January in each year; be it declared and further enacted, that proof of payment in Ireland in the manner herein directed, within any year, commencing on the fifth day of January in such year, shall entitle the claimant to the exemption hereby granted in Great Britain for the year commencing on the fifth day of April following, and proof of payment in Great Britain in the manner herein directed, for one year, from the fifth day of April in any year, shall entitle the claimant to the exemption hereby granted in Ireland, within the year commencing on the fifth day of January preceding."

Sect. 3. "That every person claiming to be exempted from any of the said duties in Great Britain, by virtue of this act, shall produce and deliver to the surveyor or inspector of the district where such claimant shall reside, a cer-

tificate under the hand of the proper officer of the inland excise and taxes in Ireland, containing a true copy of the receipt and receipts given to such claimant on all such payments as aforesaid for the last year wherein such claimant was charged to the said duties in Ireland, which certificate shall either contain, or there shall be annexed thereto, a return containing the number of servants, carriages, horses, and dogs, paid for in Ireland by such claimant in the last year, and the names and capacities of the said servants, and the descriptions of the said carriages, horses, and dogs, as required by the said first-recited acts, distinguishing which of the said servants, carriages, horses, or dogs, are the same with those so charged in Ireland, and which of them are kept in lieu of such of the said servants, carriages, horses, or dogs, which have been parted with; and every such claim, being first signed by the claimant in his or her own proper name, and in his or her usual manner of writing, the same shall be transmitted to the commissioners for the affairs of taxes in England, and the said commissioners shall inquire and examine into the truth of every such claim in such manner as they shall think necessary; and the commissioners for the affairs of taxes, in their inquiries and examinations into such claims, and whenever any such claims shall be duly proved to the satisfaction of the commissioners for the affairs of taxes in England, they shall certify the same to the commissioners of the district where such claims respectively shall be made, and shall give such directions for granting the required exemptions, either before or after assessment, as to them shall seem necessary, in order to give the relief granted by this act, and the assessment on every such claimant shall be made, discharged, altered, or amended accordingly."

3. *Of the Assessed Taxes themselves.*

produce certificates of payment of duties in Ireland.

Sect. 4. "That the several amounts of duty so to be exempted in Great Britain shall be retained and set down in figures in the several books and duplicates of assessment of the respective commissioners, under the head of '*Exemptions on Account of Ireland*,' and shall be respectively deducted from the whole duty chargeable on each claimant by virtue of the said recited acts, and the difference between the duty so chargeable and the amount of the sum to be exempted shall be set down as the net duty to be paid by each such claimant, and the duplicate thereof, to be delivered to the collector of the parish, ward, or place where each such claim shall have been allowed, shall be made or amended in such manner that the net duty only shall be demanded of or paid by each such claimant."

Amount of such exemptions to be kept.

Sect. 5. "That every person claiming to be exempted from any of the said duties in Ireland, by virtue of this act, shall produce and deliver to the proper officer of inland excise or taxes in Ireland a certificate under the hand of the said claimant containing the number of servants, carriages, horses, and dogs, assessed on such claimant in Great Britain for the last year of such assessment, together with the names and capacities of the servants, and the descriptions of the carriages, horses, and dogs charged therein, distinguishing which of the said servants, carriages, horses, or dogs, are the same with those so charged in Great Britain, and which of them are kept in lieu of such of the said servants, carriages, horses, or dogs, which have been parted with, and also a true copy of the receipt and receipts given to such claimant on all such payments as aforesaid, for that year, containing the district or county, and the parish, ward, or place, where such payments were made; and every such claim being first signed by the claimant, in his or her own proper name, and in his or her usual manner of writing, the same shall be transmitted to the commissioners of inland excise and taxes in Ireland, who shall inquire and examine into the truth of every such claim in such manner as they shall think necessary, and the commissioners for the affairs of taxes in England shall and they are hereby required to aid and assist the commissioners of inland excise and taxes in Ireland in their inquiries and examinations into such claims; and whenever any such claims shall be duly proved to the satisfaction of the commissioners of inland excise and taxes in Ireland, it shall be lawful for them to grant the said exemptions in such manner as they are authorized to grant other exemptions by any act or acts in force relating to the said duties."

Persons claiming exemptions in Ireland to produce certificates of payment of duties in Great Britain.

3. *Of the Assessed Taxes themselves.*

Claiming exemptions fraudulently.

* *Sic* in act.
Penalty.

How penalties recovered and applied.

Exemptions to members of parliament and public officers not affected.

4 & 5 Wil. 4, c. 73.
Servants, horses, and dogs wholly exempted from duty, not to be reckoned for the purpose of assessing the progressive duties in respect of other servants, &c., kept by the same person.

Exemptions to be claimed in the manner directed by 43 Geo. 3, c. 161, s. 36.

Sect. 6. "That if any person or persons shall make any such claim in Great Britain, without having first paid the duties in Ireland for the same articles respectively, or for articles of the same descriptions respectively with the articles for which such exemption is claimed, or if any person or persons shall make any such claim in Ireland, without having first paid the duties in Great Britain for the same articles respectively, or for articles of the same descriptions respectively with the articles for which such exemption is claimed; or if any person or persons shall be guilty of any fraud or contrivance with intent to evade the payment of any of the said duties, taxes, impositions, or sum or sums of money granted or made payable in Great Britain or Ireland by virtue of the said recited acts, or any of them, either in making any such claim, or in obtaining any such exemption, or shall deliver any false or fraudulent certificate, with intent to obtain any such exemption, or shall make a second claim for the same cause, every such person so offending shall forfeit any * pay the sum of 100*l*."

Sect. 7. "That in every case where the said penalty shall be incurred in Great Britain, the same may be sued for, recovered, and applied, as any penalty for any offence committed against the said first-recited acts or either of them, relating to the said duties payable in Great Britain, may be sued for, recovered, or applied, in that part of Great Britain where the said offence shall be committed; and in every case where the said penalty shall be incurred in Ireland, the same may be sued for, recovered, and applied, as any penalty for any offence committed against the last-recited act, or any other act or acts in force in Ireland respecting the same, may be sued for, recovered, or applied in Ireland."

Sect. 8. "That nothing in this act contained shall extend or be construed to extend to or in any way to affect any of the exemptions from the payments of the said duties granted and allowed by any act or acts of parliament to members of parliament ordinarily resident in Ireland, or persons holding offices or public employments in Ireland, and being resident in Great Britain, for the purposes of assisting in the execution of the public business, or to alter the manner of claiming such exemptions as are granted and allowed by the said act or acts last mentioned."

By stat. 4 & 5 Wil. IV. c. 73, s. 12, it is enacted, "That whenever under or by virtue of this act, or of any other act or acts relating to the duties of assessed taxes, any person is or shall be wholly exempted from duty in respect of any male servant, or any horse, mare, or gelding, or any dog, respectively retained or employed or kept by him, such male servant, or such horse, mare, or gelding, or dog, shall not be counted or reckoned for the purpose of assessing or increasing the progressive or other duties payable by such person in respect of any other male servants or horses, mares, or geldings, or dogs, respectively retained or employed or kept by him, but that all such last-mentioned duties shall be assessed and charged on such person without reference to the male servant, horse, mare, or gelding, or dog, in respect of which such total exemption from duty as aforesaid shall be duly allowed."

By sect. 11 it is enacted, "That in the several cases of exemption granted by this act in respect of any of the duties on male servants, on horses, mares, geldings, or mules, and on dogs, where such exemption is directed by this act to be claimed, all such servants, horses, mares, geldings, or mules, and dogs respectively shall be duly returned to the assessor; and every such exemption shall be claimed by the party seeking the benefit thereof in the manner directed by an act passed in the forty-third year of the reign of king George the Third, with regard to other exemptions from the duties of assessed taxes; and no such exemption shall be allowed unless the same and the cause thereof shall be duly returned to the assessor in the manner directed by the said act."

SCHEDULE (N.), FORMS OF CERTIFICATES.

[48 Geo. III. c. 55; and 52 Geo. III. c. 93.]

3. Of Compounding for Assessed Taxes.

Forms.

I.—Form of CERTIFICATE to be delivered by Members of Volunteer Corps.

"I, , commanding officer of the , do hereby certify, in pursuance of an act passed in the fifty-second year of the reign of his present majesty, intituled, 'An Act' [here insert the title of this act] (a), that the several persons herein named and described are severally enrolled and serving in the said corps, and have duly attended at the muster and exercise of the said corps for days, in the course of the year next preceding the date hereof; which muster rolls have been duly returned, testifying the same pursuant to the said act.

"(Signed)
"Dated the day of , "Commanding Officer."

II.—Form of CERTIFICATE to be issued to every Gamekeeper, being a Servant for whom the Master or Mistress, or the Lord or Lady of the Manor or Royalty (if in England), or the Proprietor of Lands (if in Scotland), shall be duly assessed to the Duty on Servants.

"No. . Game-Duty Certificate (A.)

["To be used where the servant pays the duty.]

"By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

"Received from C. D., residing in the parish [or, township] of [here name the parish or township], in the said county, an assessed servant of E. F. [here name the master or mistress], of [here name the residence of the master or mistress], (in exchange for this certificate), a receipt under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 1l. 5s. sterling, as the game-duty chargeable upon the said C. D., in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county [if the certificate be granted in England, or, if in Scotland, in respect of his appointment of gamekeeper of the lands of K., in the said county.] Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord

"(Signed) , Clerk."

"This certificate will expire on the fifth day of April next."

III.

"No. . Game-Duties' Certificate (B.)

["To be used where the master pays the duty.]

"By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

"Received from E. F. [here name the master or mistress], residing in the parish [or, place] of [here name the residence of the master or mistress], in the said county, on behalf of C. D., an assessed servant of the said E. F. (in exchange for this certificate), a receipt under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 1l. 5s. sterling, as the game-duty chargeable upon the said servant in respect of his deputation as gamekeeper of the manor or royalty of K., in the

(a) "An Act for repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof, and certain additional Duties, to be consolidated therewith; and also for repealing the Stamp Duties on Game-Certificates, and granting new Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes."

4. Of Com-
pounding for
Assessed
Taxes.

SCHEDULE (N.)—(Continued.)

said county [if the certificate be granted in England, or, if in Scotland, in respect of his appointment as gamekeeper of the lands of K., in the said county]. Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord .

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

IV.—Form of CERTIFICATE to be issued to every Gamekeeper, not being an assessed Servant to any Person or Persons.

“No. . Game-Duty Certificate (C.)

“By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

“Received from C. D., residing in the parish [or, township] of [here name the parish or township], in the said county (in exchange for this certificate), a receipt, under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 3l. 13s. 6d. sterling for the game-duty chargeable upon the said C. D., in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county [if the certificate be granted in England, or, if in Scotland, in respect of his appointment of the lands of K., in the said county]; the said C. D. not being an assessed servant to any person or persons. Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord .

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

V.—Form of CERTIFICATE to be issued to every Person not being a Gamekeeper.

“No. . Game-Duty Certificate (D.)

“By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

“Received from C. D., residing in the parish [or, township] of [here name the parish or township], in the said county (in exchange for this certificate), a receipt, under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 3l. 13s. 6d. sterling, for the game-duty chargeable upon the said C. D., in his own right, throughout Great Britain. Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord .

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

IV. Of Compounding for Assessed Taxes (a).

[59 Geo. III. c. 51; 1 Geo. IV. c. 73; 1 & 2 Geo. IV. c. 113; 3 Geo. IV. c. 50; 4 Geo. IV. c. 11; 4 Geo. IV. c. 45; 5 Geo. IV. c. 44; 7 Geo. IV. c. 22; 10 Geo. IV. c. 21; 1 Wil. IV. c. 35; 1 & 2 Wil. IV. c. 7; 2 & 3 Wil. IV. c. 113; 3 & 4 Wil. IV. c. 34; 4 & 5 Wil. IV. c. 54; 5 & 6 Wil. IV. c. 64.]

By the 59 Geo. III. c. 51, “An Act to relieve Persons compounding for their Assessed Taxes, from an Annual Assessment, for the term of Three Years,” sect. 1, after reciting, that, “whereas by an act passed in the forty-eighth year of the reign of his present majesty, intituled, ‘An Act for repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof,

48 Geo. 3, c. 55.

(a) See the divisions of this subject, ante, p. 925-6.

and certain additional Duties, to be consolidated therewith; and also for repealing the Stamp Duties on Game-Certificates, and granting new Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes,' certain duties of assessed taxes were granted to his majesty: and by another act, passed in the fifty-second year of the reign of his said majesty, intituled, 'An Act for granting to his Majesty certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes,' certain new and additional duties of assessed taxes were also granted and consolidated with the former duties of assessed taxes, which duties have been varied by several subsequent acts; and it is expedient to relieve such persons as are willing and desirous of compounding for their assessed taxes from an annual assessment, and all further or increased charges on articles of the same description, for a term to be limited, on condition of paying certain additional rates on the amount of the last assessment made prior to the passing of this act;" it is enacted, "that the assessments made under and by virtue of the said acts, for the year ending on the fifth day of April, 1819, shall be and remain to the same amount, in respect of all and every the persons and person who shall compound for the annual payment thereof, for the term of three years, to commence from the said fifth day of April, 1819, upon the terms and conditions hereinafter mentioned; and it shall be lawful for the commissioners acting in execution of the said several acts, for any county, city, town, or place, in Great Britain, or any two or more of them, in their respective divisions, to contract and agree with any persons or person who are or is assessed to the rates and duties granted by the said acts, or any of them, for the said year ending on the fifth day of April, 1819, and who shall apply to them for that purpose, in the same division in which such assessment hath been made, for the composition of their, his, or her assessed taxes, for the said period of three years, according to the directions and provisions of this act; and all and every persons and person assessed for the year ended as aforesaid, to the duties made payable by virtue of the said acts, or any of them, are and is hereby respectively declared to be competent to enter into composition with the said respective commissioners, for their, his, or her assessed taxes, for the term of three years, to commence from the said fifth day of April, on the same amount annually as shall have been assessed upon them, him, or her, for the year ended as aforesaid, together with an additional annual rate for every 20s. of the amount so assessed, to be ascertained and fixed in the proportions and in manner herein mentioned, except as hereinafter is provided."

4. *Of Compounding for Assessed Taxes.*

59 Geo. 3, c. 51.

Assessments for the year ending April 5, 1819, to continue at the same amount for three years.

Commissioners empowered to contract.

Persons assessed in the last year may compound.

Sect. 2. "That the duties assessed on inhabited houses and on windows or lights, contained in the schedules marked (A.) and (B.), or either of them, referred to by the said act of the forty-eighth year aforesaid, shall be compounded for separately and distinctly from all and every the other duties herein mentioned, chargeable under the said acts, or any of them; and where any such composition shall be made on the amount of the said duties assessed on inhabited houses and on windows or lights, the proportion of the said additional rate shall be 1s. for every 20s. of the amount so assessed, and so, after that rate, for any greater or lesser sum than 20s.; and where any such composition shall be made on the amount of any other of the duties granted by the said acts (except the duties granted thereby in respect of killing game), the proportion of the said additional rate shall be 1s. for every 20s. of the amount so assessed, and so, after that rate, for any greater or less sum than 20s."

Compositions on house and window duties made separately.

Additional rate of 1s. for every 20s. on amount of compositions.

Sect. 3. "That all and every persons and person entering into any such composition according to the provisions of this act, and paying the amount of the sums compounded for at the time, and in the proportions, and in manner herein specified, and doing and performing all other acts, matters, and things required by this act, shall be entitled to make or open, and keep open, during the said term, free of duty, any additional number of windows or lights, in their, his, or her dwelling-house, in respect of which such composition shall have been made, and also to keep and use, free of duty, any additional article or articles of the same description, and chargeable under

Compositions to entitle persons compounding to open additional windows, and to keep additional articles, free of duty, of the same description as those before charged.

4. Of Compounding for Assessed Taxes.

59 Geo. 3, c. 51.

Exemption: except when chargeable for another dwelling-house, or for articles of a different description.

Persons chargeable to a greater amount than in the last year's assessment, to compound on the increased amount.

Persons compounding not to be charged for their increased establishment.

Articles of different assessments to be compounded for on the last assessment.

Compositions to cease at the end of the year.

Compositions to bind party to punctual payment of amount.

Parties removing, and the executors and assigns of

the same schedule of the said acts (although the same may be therein charged with different and progressive rates of duty, according to the number thereof), as they, he, or she were or was charged in respect of, in the assessment on which the composition shall have been made; and shall be exempt from any further compliance with any of the provisions contained in the said acts relating to the assessed taxes, and from all assessments thereon, during the said term of three years; except where the persons or person entering into such composition shall be or become chargeable with the said duties in respect of a dwelling-house or dwelling-houses not comprised in the said composition; or in respect of any article or articles of a different description, or chargeable with duty under some other schedule or schedules of the said acts, than they, he, or she were or was charged in respect of in the assessment on which the composition shall have been made; in which excepted cases, and no other, further or increased charges shall be made, and the fines, penalties, and forfeitures inflicted according to the provisions of the several acts, in relation to the said taxes in force at and immediately before the passing of this act, as fully and effectually as if no such composition had been made under this act."

Sect. 4. "That no composition shall be entered into under this act with any persons or person who shall have become chargeable in the present year, by reason of any different or additional establishment set up within the year ending on the fifth day of April, 1819, to a greater amount of duty than hath been charged on them, him, or her, in the said last year's assessment, without including, as well the amount of duty so charged in the said assessment, as the increased amount of duty so becoming chargeable by reason of such different or additional establishment, nor in any such case where a *bonâ fide* return of such different or increased establishment shall not be made before the first day of July, 1819."

Sect. 5. "That no person shall be chargeable under the acts in force at the time of passing this act, after the expiration of the said term of three years, for any part of the increased establishment not included in the composition entered into under this act, who shall give six months' previous notice of his intention to discontinue the same, and who shall actually have ceased to keep the same one calendar month prior to the expiration of the said period of three years."

Sect. 6. "That when an establishment shall have consisted in part of articles whereon a less duty hath been made payable by an act in the present session of parliament, it shall be lawful to enter into compositions under this act, on the amount of duty charged on other articles on the said last assessment, together with the amount of duty so made chargeable by the said act of the present session of parliament."

Sect. 7. "That every composition entered into under this act, in respect of the duties charged on a dwelling-house from which the persons or person entering into the same shall remove during the term herein limited, shall cease and determine on the fifth day of April next after such removal; and every composition entered into under this act, in respect of any other of the duties granted by the said acts, with any persons or persons who, within the said term herein limited, shall die, or become bankrupt or insolvent, or shall assign their, his, or her goods, chattels, or effects, shall also cease and determine on the first day of April next after such death, bankruptcy, insolvency, or assignment."

Sect. 8. "That every composition entered into in pursuance of this act, subject to the determination thereof as aforesaid, shall bind the persons or person entering into the same, their, his, and her chattels, goods, and effects, to the due and punctual payment and satisfaction, at the times and in the proportions herein specified, of the full amount of the sums made payable upon the said composition, or by virtue thereof, during the continuance of the same, according to and under the provisions of this act."

Sect. 9. "That all and every persons or person so having compounded, and quitting or removing from the dwelling-houses or dwelling-house in respect of which such composition shall be made, and the executors, administrators,

or assignees of such persons or person dying or becoming bankrupt or insolvent, and the assigns of any such persons or person assigning their, his, or her estate, chattels, goods, or effects, shall be bound to the due and punctual payment of all sums accruing, due, or in arrear at the respective times of such removal, death, bankruptcy, insolvency, or assignment, or which shall be payable upon such composition for the year ending on the fifth day of April next after such removal, death, bankruptcy, insolvency, or assignment; and no goods or chattels whatever, belonging to any persons or person so having compounded, and quitting or removing from their, his, or her dwelling-houses or dwelling-house, or dying or becoming bankrupt, or insolvent, or assigning their, his, or her estate, chattels, goods, or effects, shall be removed, nor shall any goods or chattels belonging to any persons or person so having compounded be liable to be taken by virtue of any execution or other process, warrant, or authority, unless the persons or person so having compounded, or their, his, or her executors, administrators, or assignees, or the party to whom any such assignment shall be made, or by whom such process, warrant, authority, or seizure, shall be sued out or made, shall, before the removal of such goods or chattels, pay, or cause to be paid, to the proper collector or collectors of the said composition-money (the same not having been paid to the governor and directors of the Bank of England, or the receiver-general, or his deputy, pursuant to the directions of this act), all arrears of the said monies which shall be then due, or which shall be payable for the year ending on the fifth day of April next after such removal, death, bankruptcy, insolvency, assignment, or seizure; and in case of refusal to pay the said composition-money then due, or to grow due, as aforesaid, the said collectors or collector are or is hereby authorized and required to distrain such goods or chattels, and proceed to the sale thereof, in such manner as they may sell any goods or chattels distrained under the said acts, until they or he shall have obtained payment of the said composition-money, together with the reasonable costs and charges attending such distress and sale; and every such collector shall be indemnified for so doing by virtue of this act."

4. *Of Compounding for Assessed Taxes.*

59 Geo. 3, c. 51.

persons dying, &c., to be answerable for the compositions to the end of the year.

Arrears to be paid.

Composition-monies payable quarterly as assessed taxes.

Proviso for payment of compositions not less than 20*l.* into the Bank, or to receiver-general, by half-yearly payments.

Receiver-general to give receipts, to be delivered over to the collector, and by him received as cash.

Sect. 10. "That the monies to arise or become payable by virtue of the compositions entered into under this act shall be payable without demand, and paid quarterly, at the same times and in the same proportions, and to the same persons respectively, as the duties of assessed taxes are now payable by virtue of any act or acts in force at and immediately before the passing of this act: provided always, that all and every the persons and person so compounding as aforesaid, the amount of whose annual compositions or composition shall not be less than 20*l.*, may contract and agree with the respective commissioners aforesaid, for the payment of their, his, or her composition-money into the Bank of England, or to the receiver-general, or his lawful deputy, for the county or division where their, his, or her composition-money shall be payable, by half-yearly instalments at the times and in the manner herein prescribed in this act; and all such half-yearly payments shall be made in equal portions on or before the first day of October, and the first day of April in each year; and with respect to payments to be made to the receiver-general, or his deputy, to require a receipt or receipts acknowledging such payments, at the cost and charge of the persons or person making such payments, in such form as the commissioners for the affairs of taxes shall devise and direct; and in every such case the said receiver-general, or his deputy, as aforesaid, shall give the said persons or person by whom such payments shall be made, a receipt or receipts as aforesaid, specifying therein the names or name of the persons or person compounding as aforesaid, and the parish or place mentioned in the certificate of composition; which receipts shall be delivered over to the collectors, or one of them, of the parish or place where the assessment referred to by the certificate of composition shall have been made, by indorsement, under the hands or hand of the persons or person so compounding and paying, and shall be received by such collectors or collector as cash, and allowed as such by every receiver-general, or his deputy, in his accounts with such collector."

4. *Of Compounding for Assessed Taxes.*

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Bank to open an account with commissioners of the treasury.

Cashiers to receive compositions, and to enter same in said account.

Persons paying the annual compositions in advance, to receive a discount of 3*l.* per cent. per annum.

Certificates of the Bank received by collectors as cash.

Assessors to deliver the prescribed notices to all parties assessed in the last year; together with a printed form.

Persons desirous to compound, to send applications to clerks of commissioners; who are to summon commissioners to take the applications into consideration.

Sect. 11. "That the governor and directors of the Bank of England shall open an account in their books with the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, for each year, during the term herein limited, under the title of 'The Commissioners of the Treasury on account of Compositions of Assessed Taxes,' and shall carry to the credit of such account all monies authorized by this act to be paid into the said Bank of England; and the cashier of the Bank of England, who shall receive any money tendered to him in payment of not less than one moiety of the money annually payable on any composition, shall enter the same in the book to be provided for that purpose, and all such sums shall be entered under the names or name of the persons or person compounding as aforesaid, and the county, division, and parish, or place, mentioned in the certificate of composition; and the said cashier shall give the person paying the same a certificate of such payment, specifying therein the number of half-yearly instalments thereby discharged, and referring therein to the names or name of the person or persons so compounding, and the county and division mentioned in the certificate of composition then produced: provided always, that it shall be lawful for any persons or person so authorized as aforesaid, to pay, or cause to be paid in advance, to the governor and company of the Bank of England, or to their cashier or cashiers, any sum or sums of money compounded for as aforesaid, and payable for the term of one whole year, and to require a certificate or certificates acknowledging such payments; and it shall be lawful for the cashier or cashiers of the said Bank of England, on production of the certificate of composition at the time of payment of the said duty in advance (all sums then payable on such composition for any former year or instalment being first satisfied), to make an allowance out of the sum or sums so paid in advance, at the rate of 3*l.* per centum per annum, calculated for the period or periods by which each respective sum shall be paid sooner than the period prescribed by this act for the payment thereof; and all such certificates made out by the cashier or cashiers of the governor and company of the Bank of England, as aforesaid, being indorsed and delivered by the persons or person so compounding, to the collectors, or one of them, of the parish or place where the assessment referred to by the certificate of composition shall have been made, shall be received by them as cash in satisfaction of the condition of such certificate, and allowed to them in their accounts with the receiver-general and his deputy, as aforesaid."

Sect. 12. "That the assessors acting in the execution of the acts in relation to assessed taxes, shall, as soon after the passing of this act as can conveniently be done, give such notice of this act to all and every persons and person charged to the said duties, or any of them, for the year ending the fifth day of April, 1819, as the commissioners for the affairs of taxes shall devise and direct, or leave the same at their, his, or her dwelling-house, or place of residence, or on the premises, charged by the said assessment within the respective limits of such assessors; together with a printed form, to be used in applying to the commissioners of the respective divisions by all persons desirous of compounding for their assessed taxes under this act, in such form as shall be devised and directed as aforesaid; and all and every persons and person desirous of so compounding, shall distinguish, on such form, the additional rate at which they, he, or she, are or is desirous to compound, and shall sign the same with their, his, or her christian and surnames or surname, in their, his, or her usual manner of writing the same, and cause the same to be delivered, free of charge, to the clerk of the commissioners of the division wherein the said assessment hath been made; and the said clerks by whom such forms shall be received, shall number the same progressively, and file the same, and with all convenient speed shall mark the assessments on which such compositions are to be made, and shall summon the commissioners of their respective divisions to meet at the usual place of meeting on some convenient day, not later than ten days after they shall have received notice of any such application to compound; and the said commissioners shall meet at their usual place of meeting within

the time fixed by such summons, to take the applications then made into consideration, and so, from time to time, as often as such applications shall be made, and at such times as they shall deem necessary for the due execution of this act."

4. *Of Compounding for Assessed Taxes.*

59 Geo. 3, c. 51.

Surveyors to examine assessments for the last year on persons applying to compound, and their returns for the present year; and in certain cases may certify their objections to commissioners.

In what cases composition may be rejected.

Doubts may be referred to commissioners for taxes, &c.

Half of the composition to be paid in ten days.

Time of entering into compositions limited.

Clerks to prepare the certificates of composition, to be signed by the commissioners and parties compounding; and give notice to parties to attend.

Certificates made in three parts.

Sect. 13. "That the surveyors appointed under the acts relating to assessed taxes, shall, before any certificate of composition shall be executed by the said respective commissioners, as herein mentioned, carefully and diligently inspect and examine each and every application to compound, made under this act, and also the assessments made on the persons or person so applying for the year ended on the fifth day of April, 1819, and also the returns of the same persons or person delivered under the said acts for the present year, commencing from the said fifth day of April; and if such surveyor shall, on such inspection and examination, find or discover that any persons or person who shall have applied to compound hath removed from the dwelling-house charged in the last assessment, or hath returned any additional establishment as chargeable for the present year, so as to increase the amount of their, his, or her assessment for the present year, beyond the amount charged in the preceding year, or hath not made any return, or hath made an undue return for the present year, it shall be lawful for the said surveyor, and he is hereby required, to certify the same in writing by him to the said commissioners, with his objections; and no composition shall be entered into in respect of the dwelling-house from which the persons or person applying to compound have or hath removed; nor with any persons or person who have not nor hath made a due return of all articles, matters, and things chargeable upon them, him, or her, for the present year, and in case such due return shall have been made, then no such composition shall be entered into, without adding to the amount of the last year's assessment the additional establishment chargeable under the said acts in the present year, and calculating the additional rate payable under this act on such aggregate amount; and if any doubt shall arise, whether a composition may be made under this act, according to the provisions thereof, it shall be lawful for the respective commissioners to refer the matter in doubt to the commissioners for the affairs of taxes, or to such commissioners as his majesty shall appoint for that purpose, or any two of them, who shall return their opinion to the said respective commissioners, who shall act according to such opinion."

Sect. 14. "That upon every composition entered into under this act, after the first day of October, 1819, there shall be paid one moiety of the annual amount payable on the same, within ten days after the date of the certificate of composition; and no such composition shall be entered into after the thirty-first day of the same month, nor after the persons or person applying for the same shall have received a notice of an increased charge upon their, his, or her return of articles chargeable for the present year, from the surveyor of the district in which such return shall be made; nor after any appeal from the amount of the first assessment charged on the persons or person so applying to compound for the present year, which shall be made conformable to the returns of the persons or person so applying."

Sect. 15. "That, upon all applications to compound under this act, which shall not be objected to by the surveyor, as aforesaid, the clerk to the said respective commissioners shall carefully and diligently compute and ascertain the amount of duty charged in the said last assessments, and shall prepare and fill up a certificate of the composition to be made thereon, on which the additional rate is by this act directed to be charged; and whenever the applications to compound which have been objected to by the surveyor, as aforesaid, shall have been conceded to by the said respective commissioners, the said clerks shall, in like manner, from time to time, compute and ascertain the amount of duty whereon the additional rate is by this act directed to be charged, and prepare and fill up a like certificate; and shall from time to time give notice to the persons or person so applying to attend the said commissioners, to sign and execute the said respective certificates; and every such certificate shall be made in three parts, with counter checks,

4. *Of Compounding for Assessed Taxes.*

59 Geo. 3, c. 51.

Composition-mo-
nies to be raised
under the provi-
sions of acts re-
lating to assessed
taxes.

Commissioners
acting under as-
sessed-tax acts to
be commissioners
to act in execution
of this act.

Other officers ap-
pointed under the
same acts to exe-
cute this act.

Treasury to allow
additional salaries
to surveyors, and
discharge inci-
dents.

and severally signed by the said commissioners, or any two or more of them, and by the persons or person compounding, in the presence of their clerk, or his assistant, who shall attest the same; and two of the said parts shall be cut off indentwise from the third part, and from each other, one of which shall be delivered to the persons or person compounding, and the other thereof transmitted to the office of the commissioners for the affairs of taxes, and the third shall remain with the commissioners executing the same; and all such certificates shall be made in the form to this act annexed."

Sect. 16. "That the several sums payable under or by virtue of any composition to be made under this act shall be raised, levied, and accounted for, under the provisions and regulations of this act, and any act or acts in force at the time of passing this act, in relation to the duties of assessed taxes, or of any act or acts to be passed in this session of parliament; and this act shall be construed in such manner, and to the like effect, as if the several provisions in the said acts in force, as aforesaid contained, for raising, levying, paying, and accounting for the duties of assessed taxes, were expressly enacted in this act, except where other provisions are made under this act, for paying the said several sums contained in the compositions under this act, or shall be made under any act or acts to be passed in the present session of parliament; and all and every the powers, authorities, directions, clauses, matters, and things, contained in such acts in force, as aforesaid, for levying, paying, and accounting for the duties of assessed taxes, shall severally and respectively be observed, practised, and put in execution, throughout the respective parts of England and Scotland respectively, as fully and effectually, to all intents and purposes, as if the same powers, authorities, directions, clauses, matters, and things, were respectively repeated and re-enacted in this act, and shall severally be applied, construed, deemed, and taken to belong to this act in like manner as if the same had been enacted therein, and expressly applied to the monies to be raised, paid, and accounted for, under the compositions authorized by this act."

Sect. 17. "That all and every the persons or person who now are or is, or for the time being shall be, commissioners for putting in execution the said acts in relation to the assessed taxes, and who shall be respectively qualified and authorized to act in the execution of the said acts, and shall have taken the oaths directed thereby, shall be commissioners for putting in execution this act, and the powers referred to or contained in all and every the respective counties, ridings, cities, boroughs, cinque-ports, towns, and places, privileged or not privileged, within England, Wales, and Berwick-upon-Tweed, and in all and every the shires, stewartries, cities, and boroughs in Scotland; and the several assessors, collectors, and clerks, respectively appointed or to be appointed to put in execution the said acts, and the several surveyors, inspectors, and inspectors-general, respectively appointed or to be appointed under or by virtue of the said acts, within the limits of their respective jurisdictions to which they are or shall be respectively appointed, shall respectively be assessors, collectors, clerks, surveyors, inspectors, and inspectors-general, to put in execution this act, according to the powers respectively given to them by this act, and they respectively are hereby empowered and required to do all things necessary for putting this act in execution, with relation to the compositions to be made, and the monies to be raised under this act, in the like and in as full and ample a manner as they or any of them are or is authorized to put in execution the powers of the said acts, in so far as the said powers are respectively applicable to this act; and all the monies to be raised under this act shall be under the care and management of the commissioners for the affairs of taxes, appointed or to be appointed by his majesty, his heirs or successors."

Sect. 18. "That it shall be lawful to and for the commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, to allow such additional salaries to the several surveyors to be employed in the execution of this act, and otherwise in relation thereto, and also to discharge such incident charges and expenses of the said surveyors, and also of the inspectors and inspectors-general, as shall necessarily attend the execution of this act, as the said commissioners of the

treasury, or any three or more of them, or the high treasurer for the time being, shall think fit and reasonable in that behalf; and every receiver general and collector shall annually, during the continuance of this act, have and be entitled to have the like poundage for what money they shall respectively pay or account for under this act, as they or he would have been entitled to under the said act of the forty-eighth year of the reign of his present majesty, for the like amount of assessed taxes paid by them respectively; and that for the careful preparing, writing, and transcribing all and every the certificates of composition, duplicates, warrants, and estreats, in due time, and for the due, speedy, and effectually executing all matters and things directed to be done or performed by or under the commissioners acting in the execution of this act, the clerk of the said respective commissioners who shall perform the same within the times limited by this act, or by the said acts in force at and immediately before the passing of this act, shall have and receive from the receiver-general at the same times, and under the same conditions and restrictions, the like poundage on the amount compounded for under this act, as he would have been entitled to have and receive under the said act of the forty-eighth year aforesaid, for the like amount of assessed taxes."

Sect. 19. "That, from and after the date of any certificate of composition made under this act, and during the continuance of the same in force, all assessments under the said acts shall cease with respect to the persons or person so compounding, except as hereinbefore is excepted; and three abstracts of all and every certificates and certificate of composition shall, within ten days after the first day of October in the present year, and in each subsequent year during the continuance of any compositions under this act, within one calendar month after the fifth day of July in such year, be prepared by the clerk to the commissioners who have executed the said certificates, in such form as shall be devised and directed by the commissioners for the affairs of taxes; and the said commissioners, or any two or more of them, shall yearly set their hands to the said abstracts, and deliver, or cause to be delivered, one of the said abstracts of such certificates, together with warrants, under the hands and seals of two or more of the said commissioners for collecting the same, unto the persons respectively who shall be appointed to collect the assessed taxes for that year, and one other of the said abstracts to the surveyor of the district for the time being, and the third of the said abstracts to be kept by such clerk for the use of the said commissioners; and, in case the respective collectors shall not receive the sums payable on the certificates of composition with which they are respectively entrusted, according to the said abstract delivered to them respectively, or the receipt of the receiver-general or his deputy, or the certificate of the cashier of the Bank of England, acknowledging the payment thereof, at or before the times mentioned in their warrants, it shall be lawful to and for such collector and collectors, or any of them, and they are hereby required, forthwith to distrain for the same, together with 1s. for every 20s. of the amount in arrear, to their or his own use, and all reasonable costs and charges attending the same, in such manner and form as they might distrain for the duties of assessed taxes arising by virtue of the said acts, and to levy and raise the same, under the like powers and authorities as collectors are authorized to use in and for the recovery of the said duties."

4. Of Compounding for Assessed Taxes.

59 Geo. 3, c. 51.

Receivers-general and collectors to have poundage as under 48 Geo. 3, c. 55 (a).

Clerks to have poundage as under 48 Geo. 3, c. 55.

All assessments to cease, except as before excepted.

Clerks to make out abstracts of composition under hand of commissioners, for collectors to collect by.

If compositions not duly paid, collectors may distrain for arrears, with 1s. in the pound for their own use, and all costs and charges.

Commissioners to include in their parchment duplicates of assessed taxes, the amount of the composition-monies.

Sect. 20. "That the respective commissioners aforesaid shall cause the amounts of the sums to be raised by such compositions in each parish, ward, and place, within their respective divisions, to be inserted in their annual duplicates of assessments of assessed taxes on parchment, in a column to be prepared thereon for that purpose, under the head of 'Taxes Compounded for,' in like manner as if the same amounts had been severally charged by assessment under one schedule of the said acts, in the same parish, ward, or place; and shall place the respective amounts payable in each parish, ward, or place, opposite the names of the collectors of the same parish, ward, or place, that the several collectors, and each parish, ward, or place, may be

(a) Part of this section repealed, as to the office of receiver-general, except in poundage to receiver-general, by 3 Geo. certain cases, *ante*, 953.

IV. c. 88, s. 1. And see as to abolishing

4. Of Com-
pounding for
Assessed
Taxes.

59 Geo. 3, c. 51.
omposition-mo-
nies carried to
consolidated fund.

answerable for the same amounts, as if the same had been to be raised by assessment under the said acts."

Sect. 21. "That the monies arising by the compositions entered into under this act (the necessary charges of raising and accounting for the same excepted), shall from time to time be paid into the receipt of his majesty's Exchequer at Westminster, to the account of assessed taxes, and shall be carried to and made part of the consolidated fund of Great Britain."

"SCHEDULES to which this Act refers.

"No.



the annual sum of £
additional rate of
together to the sum of £
division by two instalments:

"Know all men, that we, of the commissioners acting in the execution of the acts in relation to assessed taxes, for the division of , in the , have contracted and agreed with , of , in the said county and division, in pursuance of an act passed in the 59th year of George the Third, for the composition of assessed taxes, chargeable upon , at and for , being the amount of the said assessment, and an pounds per centum per annum thereon, amounting to- , to be paid in to the receiver-general of the said

Viz., 1st instalment, on or before the 1st day of October,

2d instalment, on or before the 1st day of April,

in each year, during and until the full end and term of three years, commencing on the 5th day of April, 1819.

"The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to the receiver-general of the said division, or his lawful deputy, or one of them, on or before the days before mentioned, without demand, the yearly sum of £ , by two instalments, in even portions, taking his receipt for the same on each payment, and delivering the said receipts to , the collectors of , or one of them, in discharge of such payment; otherwise the said composition shall be levied of the goods and chattels of the said , or otherwise, as the said act directs.

"Signed,

} Commissioners of the
within Division.

"Witness,

"Clerk to the said Commissioners.

The party hereto."

"No.



assessment, and an additional rate of
amounting together to the sum of £
by two instalments:

"Know all men, that we, of the commissioners acting in the execution of the acts in relation to assessed taxes, for the division of , in the , have contracted and agreed with , of , in the said county and division, in pursuance of an act passed in the 59th year of George the Third, for the composition of assessed taxes, chargeable upon , at and for the annual sum of £ , being the amount of the said

Viz., 1st instalment, on or before the 1st day of October, |

2d instalment, on or before the 1st day of April,

in each year, during and until the full end and term of three years, commencing on the 5th day of April, 1819.

"The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to one of the cashiers of the Bank of England, on or before the days before mentioned, without demand, the yearly sum of £ , by two instalments, in even portions, taking the certificate of the said cashier for the same on each payment, and delivering the said certificates to , the collectors of , or one of them, in discharge of such payment; otherwise the said composition shall be levied of the goods and chattels of the said , or otherwise as the said act directs.

"Signed,

} Commissioners of the
within Division.

"Witness,

"Clerk to the said Commissioners.

The party hereto."

" No.

4. Of Com-
pounding for
Assessed
Taxes.

59 Geo. 3, c. 51.



" Know all men, that we, of the commissioners acting in execution of the acts in relation to assessed taxes, for the division of , in the , have contracted and agreed with , of , in the said county and division, in pursuance of an act passed in the 59th year of George the Third, for the composition of assessed taxes, chargeable upon , at and for the annual sum of £ , being the amount of the said

assessment, and an additional rate of pounds per centum per annum thereon, amounting together to the sum of £ , to be paid in to the collectors of the said by four instalments :

Viz., 1st instalment, on or before the 5th day of July ;
2d instalment, on or before the 10th day of October ;
3d instalment, on or before the 5th day of January ;
4th instalment, on or before the 5th day of April ;

in each year, during and until the full end and term of three years, commencing on the 5th day of April, 1819.

" The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to the collectors for the said , or one of them, on or before the days before mentioned, without demand, the yearly sum of £ , by four instalments, in even portions ; otherwise the said composition shall be levied of the goods and chattels of the said , or otherwise, as the said act directs.

" Signed,

} Commissioners of the
} within Division.

" Witness,

" Clerk to the said Commissioners.

The party hereto."

By the 1 Geo. IV. c. 73, s. 1, after reciting, that, " whereas, by an act 1 Geo. 4, c. 73. passed in the fifty-ninth year of the reign of his late majesty king George the Third, intituled, ' An Act to relieve Persons Compounding for their Assessed Taxes from an Annual Assessment for the Term of Three Years,' from the sixth day of January, 1820, all persons assessed to the said duties for the year ending the fifth day of April, 1819, were enabled to compound for the same, on the terms and conditions therein contained, with the respective commissioners for executing the acts relating to the said duties at any time on or before the thirty-first day of October, 1819 : and whereas the commissioners for executing the said acts in several districts have executed and delivered contracts of composition after the said thirty-first day of October, 1819, and in other districts have received from persons desirous of compounding or entitled to have compounded before the said thirty-first day of October, 1819, offers to compound under the terms and conditions of the said act, but may not have executed the same ; and it is expedient that all compositions which have been so entered into after the thirty-first day of October, 1819, should be confirmed, and that the time should be extended for completing certificates of composition upon offers to compound under the terms and conditions of the said act, which were delivered to the said commissioners, or their respective clerks, under the regulations of the said act, on or before the thirtieth day of November, 1819 : " it is enacted, " that all certificates of composition which have been entered into and signed by the said respective commissioners and the parties compounding, at any time after the said thirty-first day of October, and on or before the said thirtieth day of November, 1819, shall be and the same are hereby declared to be confirmed and valid, and of the like force and effect, and subject to the like powers and conditions for payment, as if the same compositions had been made and entered into within the time limited by the said act ; and all and every person or persons, commissioners and others, who shall or may have been in any manner concerned in advising or assenting to or executing such compositions, in such cases, and in such manner, and under the like circumstances as hereinbefore mentioned, shall be, and they and every of them are and is hereby fully and effectually indemnified for so doing."

Certificates of
compositions en-
tered into by com-
missioners on or
before Nov. 30,
1819, confirmed,

4. *Of Compounding for Assessed Taxes.*

1 Geo. 4, c. 73.

Commissioners may contract upon offers to compound made on or before Nov. 30, 1819, provided the certificates of contracts are executed before Dec. 31, 1820.

Proviso for persons entering into compositions for four-wheel carriages,

and for persons compounding for carriages with less than four wheels,

and for persons compounding for male servants to the higher duty, and for persons compounding for horses,

and for persons compounding for dogs,

and for persons so compounding in

Sect. 2. "That in every case wherein the said respective commissioners have received any offer to compound after the said thirty-first day of October, and on or before the said thirtieth day of November, 1819, and may not have completed the contracts of composition before the passing of this act, it shall be lawful for the said respective commissioners, being satisfied that the party so offering to compound was entitled to compound before the day limited by the said act as aforesaid for that purpose, and they are hereby authorized and required, to enter into composition with such person or persons respectively, according to the provisions of the said act, and of this act; provided the certificates of such compositions respectively shall be executed by the said commissioners and the party so compounding on or before the thirty-first day of December, 1820; and which certificates of composition, when executed by the said commissioners or any two or more of them, and by the party aforesaid, in the manner by the said act directed, shall be of the like force and effect, and subject to the like powers and conditions for payment, to all intents, as if the said composition had been entered into within the time by the said act limited as aforesaid; anything in this act contained to the contrary notwithstanding."

Sect. 3. "That where any person or persons assessed in the year ending on the fifth day of April, 1819, for a carriage or carriages with four wheels, as described in the schedule marked (D.), No. 1, of the acts relating to assessed taxes, shall have entered into composition for the same under the said act, or shall enter into composition for the same under this act, and not for a carriage with less than four wheels, as described in the schedule marked (D.), No. 2, of the said acts, it shall be lawful for such person or persons to set up, keep, and use, during the period of three years, limited by the said act of the fifty-ninth year aforesaid, any such carriage or carriages with less than four wheels, free of duty; and where any person or persons shall in like manner have been assessed and compounded for any such carriage or carriages with less than four wheels, and not for any such carriage with four wheels, it shall be lawful for such person or persons to set up, keep, and use, during the like period of three years, any such carriage or carriages with four wheels, free of duty; and where any person or persons shall have been so assessed for any male servant as described in the schedule marked (C.), No. 1, of the said acts, and shall have compounded for the same under the said act of the fifty-ninth year aforesaid, or shall compound for the same under this act, it shall be lawful for such person or persons, during the period of his, her, or their respective compositions, to retain, keep, and employ any male person or number of male persons described in any other schedule marked (C.), No. 2, or No. 3, of the said acts, free of duty; and where any person or persons shall have been so assessed in respect of any horse, mare, or gelding kept for the purpose of riding, or drawing any carriage chargeable with duty, as described in the schedule marked (E.) of the said acts, and shall have compounded for the same under the said act of the fifty-ninth year aforesaid, or shall compound for the same under this act, it shall be lawful for such person or persons, during the period of his, her, or their respective compositions, to keep any horse, mare, or gelding, not exceeding the height of thirteen hands, and used for the purpose of riding, or drawing any carriage last aforesaid, free of duty granted by an act passed in the fifty-ninth year of the reign of his late majesty; and where any person or persons shall have been so assessed in respect of any greyhound chargeable with the duty of 20s., or any hound, pointer, setting-dog, lurcher, terrier, or other dog chargeable with the like duty of 14s., in and by the schedule marked (G.) of the said acts, and shall have compounded for any such dog under the said first-mentioned act of the fifty-ninth year aforesaid, or shall compound for the same under this act, it shall be lawful for such person or persons, during the period of his, her, or their composition, to keep any dog or dogs, or any number of such dogs, of any of the descriptions aforesaid, chargeable with the same duties of 20s. and 14s. respectively, or either of them, free of duty; and all and every such person and persons respectively so compounding or having compounded as aforesaid, and who is or are hereby

authorized to keep or use any article or articles herein described free of duty, shall be freed and exonerated from all assessments under the said acts relating to assessed taxes, as fully and effectually as he, she, or they would have been, if the said article or articles had been of the same description, and included in the same schedule of the said acts, with the article or articles on which the composition shall have been or shall be made; any thing in the said first herein-mentioned act of the fifty-ninth year aforesaid contained to the contrary notwithstanding."

4. *Of Compounding for Assessed Taxes.*

1 Geo. 4, c. 73.
respect of articles free of duty.

Sect. 4. "That all and every persons and person, being respectively effective members of any volunteer corps of yeomanry, who shall have compounded for their assessed taxes under the said act, or shall be entitled to compound for the same under this act, shall, from and after the fifth day of April, 1819, during the continuance of such composition, be entitled to the like exemptions, in respect of their or his horse or horses used in the said corps, as they respectively would have been entitled to in case no such composition had been entered into, and whether such composition shall include any assessed horse or horses or not; and also, during the continuance of such composition, shall be entitled to the like privileges and immunities in respect of any additional horse or horses by them or him kept as aforesaid, as they or he would have been entitled to, had such composition been entered into in respect of one or more assessed horse or horses, in the cases, and in the manner, and subject to the conditions contained in the schedule annexed to this act."

Proviso for effective members of volunteer corps of yeomanry as to the duty on horses.

Sect. 5. "That the yearly sum payable on any composition entered into in Great Britain on removal of the person so compounding to Ireland, and the yearly sum payable on any composition entered into in Ireland on removal of the person so compounding to Great Britain, shall severally and respectively be deemed, received, and taken in Ireland and Great Britain respectively as a yearly assessment to the amount of duty payable on servants, horses, and carriages respectively in that part of the United Kingdom in which such composition was entered into, and which the party might by virtue thereof keep and use."

Persons compounding in England or Ireland to have the like relief, on removal from double assessment, as is provided by 51 Geo. 3, c. 72, in respect to annual assessments.

Sect. 6. "That every composition entered or to be entered into by commissioners of districts, in which the amounts of taxes compounded for have been assessed wholly or in part out of the jurisdiction of the commissioners, parties to the said composition, is declared to be as valid and effectual as if the whole amount of taxes contained therein had been assessed by them, any thing in the said act contained to the contrary notwithstanding; and all assessments out of the said district included in the said certificate of composition shall be discharged in the respective districts where the same were made by the commissioners acting for the same respectively, on the certificate of the commissioners by whom the composition was entered into; and all discharges heretofore made for the same cause are hereby declared to be valid, and all commissioners, officers, and other persons who have acted in directing or discharging the same assessments, are hereby indemnified in so doing; provided that in every case of composition to be executed after the passing of this act, two of the commissioners for the affairs of taxes shall, by their certificate, countersigned by their secretary, certify the same to the commissioners of the respective districts in which such composition shall be intended to be made, and in which the taxes shall be assessed, and upon such certificates being transmitted to the respective commissioners aforesaid, they are hereby respectively required to enter into such composition, or to vacate and discharge such assessments accordingly."

Compositions for taxes in one district of persons assessed elsewhere, confirmed.

Indemnity to parties;

and, upon certificate, discharges in other districts allowed.

Sect. 7. "And whereas by the said first-recited act, passed in the fifty-ninth year aforesaid, it is directed that the duties on inhabited houses and on windows and lights contained in the schedules marked (A.) and (B.), or either of them, in the acts relating to the assessed taxes, shall be compounded for, separate and distinct from all and every the other duties therein mentioned, by reason that, on the removal of the person compounding for the dwelling-house in respect of which the duties in the said schedules shall have been compounded for, the composition in respect of the said dwelling-

Compositions for houses and windows and other assessed taxes in one contract confirmed;

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1 Geo. 4, c. 73.

and the commissioners to distinguish the proportions of duty by indorsement on the certificate.

Contracts entered into by party, having paid instalment but not signed, may be signed by agent.

Such contracts binding, though not signed.

In what cases, where certificates prepared but not signed, such certificates void; and assessments restored and levied.

house is directed to cease and determine on the fifth day of April next after such removal: and whereas in some cases the commissioners of certain districts have allowed persons to compound for all the said duties in and by one certificate of composition, without distinguishing the said respective duties; be it further enacted, that in all such cases last mentioned it shall be lawful for any two commissioners acting for the division in which such certificate of composition shall have been entered into, and they are hereby required, to certify, by indorsement on such certificate, and also in the abstracts of such compositions, the particular duties charged in respect of such dwelling-house under the schedules (A.) and (B.) aforesaid, with the amount of the composition thereon, and to distinguish the same from the rest of the duties so compounded for, with the instalments payable on each description of duty, in like manner as if the same had been compounded for under separate certificates of composition; and the same certificates of composition shall be enforced under the powers of the said act and this act, in respect to all or any part of the respective instalments thereby payable under the provisions of the said act or this act; and all and every such certificates of composition shall be, and the same are hereby declared to be, as valid and of the same force and effect in respect to the continuance of the composition for each description of duty, and enforcing the payment of the same under the powers of the said recited act or of this act, to all intents and purposes, as if such composition for the duties on houses and windows had been made separate and distinct from the remainder of the said duties compounded for by such certificate under the provisions of the said act."

Sect. 8. "That where, by absence, sickness, or other reasonable cause, persons who have given notice to compound under the said recited act passed in the fifty-ninth year aforesaid, may have been prevented from signing their respective contracts of composition, but have paid or discharged one or more instalment or instalments due thereon, it shall be lawful for him, her, or them to sign such contract or contracts himself or herself, or by any agent or agents to be appointed for that purpose by him or her, in writing under his or her hand, duly attested and certified to the commissioners acting for the district in which such composition shall be made; and the appointment or authority for such agent to sign the said contract shall be free of any stamp duty, and the same being delivered to the commissioners of the said last-mentioned district, or their clerk, shall be a sufficient authority for the agent so appointed to sign such certificate or contract; and all contracts on which any instalment shall be paid, although not signed by the party, or his or her agent, shall be binding on him or her, as if the same had been duly signed under the provisions of the said act; and in all cases where certificates of composition prepared on notices by the parties compounding under the said recited act or this act, shall not be signed by such parties or their agents, and any instalment or instalments shall not be paid thereon for the space of eight months after the passing of this act, such certificates of composition shall be null and void, and the several commissioners in the respective districts are hereby authorized and required to restore the assessment on such persons in respect of which such certificates of composition were prepared and intended to be made, and to cause the same to be levied and collected to all intents and purposes as if notices of such composition had not been given by the persons so intending to compound and neglecting to complete their compositions as aforesaid; and if any such composition, or any portion thereof, shall have been made on an assessment out of the jurisdiction of the commissioners parties to the said composition, then such commissioners shall certify the same to the commissioners for the affairs of taxes, with the amount of the taxes so contracted for, and the district of assessment; and the said commissioners for the affairs of taxes are hereby required to certify the same to the commissioners of the district of assessment, who shall, on receipt thereof, cause the said assessments to be restored, as well for the year in which the composition was made, as for the subsequent and all future years, and collected together with the other assessed taxes, as if notice of such composition had not been given as aforesaid."

Sect. 9. "That, in default of payment of the respective instalments on any composition entered or to be entered into under the provisions of the said recited act or of this act, on the respective days of payment specified in the respective certificates of contracts for such composition, and of neglect of the respective collectors to distrain for the same under the warrant of the commissioners, it shall be lawful for any such collector, and he is hereby required, immediately upon any such default in payment of any such instalment, to deliver or cause to be delivered to the commissioners acting for the district in which such composition shall have been made, or to the receiver-general acting for the said duties, or his deputy, a schedule in writing, containing the particulars of such default, with an affidavit subscribed and verified by such collector before any commissioner acting for the said duties, that the amount of such instalment or instalments to be contained in such schedule is or are due and unpaid to such collector, or to any other person for him, to the best of his knowledge and belief; and every such schedule, being certified under the hand of the receiver-general, or his deputy, of the county or division where the said arrears accrued, to the Court of Exchequer at Westminster, shall be received and taken as sufficient evidence of a debt due to his majesty, and shall be a sufficient authority to the barons of the said court, or any one of them, to cause process to be issued against such defaulter named in the said schedule, to levy the whole sum in arrear and unpaid by such defaulter; and the sheriff or other officer to whom the said process shall be directed, shall without delay cause the whole sum in arrear to be levied by due course of law, as a debt to his majesty on record, with all costs and expenses attending the same, and shall pay the monies so levied, after deducting the said costs and expenses, to the said receiver-general or his deputy, and shall make return of the said process to the said court, according to the due course thereof."

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1 Geo. 4, c. 73.

In default of payment of instalments and of the collector to levy, a schedule of arrears to be given in.

The certificates of such schedule to be ground of process.

Costs.

Sect. 10. "That the provisions and rules contained in the schedule hereunto annexed shall severally be deemed a part of this act, as if each provision and rule had been inserted herein under a special enactment."

Rules in schedule deemed part of act.

"The SCHEDULE (A.) to which this Act refers.

"*CASES OF RELIEF to Effective Members of Corps of Yeoman Cavalry.*

"First Case.—Every effective member of any such corps, who at the time of entering into or giving notice to enter into composition for his assessed taxes under the said acts, or either of them, who shall not by reason of such service have been assessed for any horse, mare, or gelding, in the year ending the fifth day of April one thousand eight hundred and nineteen, shall be entitled to and may exercise the like privileges in keeping and using more additional horses, mares, or geldings, free of duty, during the time he shall continue such effective member, and shall use or provide such horse, mare, or gelding, horses, mares, or geldings, in such service, as if such member had been assessed, and made composition for the same horse, mare, or gelding, or horses, mares, or geldings, on payment annually of one shilling for every twenty shillings of the duty so exempted."

"Second Case.—Every effective member of any such corps, who shall keep one horse, mare, or gelding, and no more, and who hath not been assessed for any other article mentioned in the acts relating to assessed taxes (his dwelling-house excepted), may, within three calendar months after the passing of this act, enter into composition in respect of such one horse, mare, or gelding, on payment annually of the sum of three shillings, computed from the fifth day of April one thousand eight hundred and nineteen, during the period of such composition, and his continuing in the said corps as such effective member."

"Third Case.—Every person who hath entered or shall enter into composition for his assessed taxes under the said act or this act, and who hath afterwards or shall become an effective member of any such corps, shall be entitled to the like exemptions for any horse, mare, or gelding used or provided by him, in like manner as if no such composition had been entered into by him; all which privileges, immunities, and exemptions shall be granted and allowed, according to the following rules:—

"First Rule.—The amount of compositions payable in pursuance of the provisions in the first of the said cases shall be ascertained and settled by two of the commissioners acting for the assessed taxes in the same district in which the composition shall have been made, and certified by them under their hands by indorsement on the certificate

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or contract of such composition, on the production thereof, and of the certificate of effective service, as provided by the said acts relating to the assessed taxes, and which certificate the said commissioners for their respective districts are hereby required and authorized to indorse and sign accordingly; and the sum so charged and added to the amount of the said composition in and by such certificate, and to the abstract thereof, shall and may be levied and recovered by the same instalments and in like manner as the amount of composition inserted in the body of the said contract, and in addition thereto."

"Second Rule.—The amount to be charged in the second case before mentioned shall be inserted in each annual assessment for the same parish or place in which the exemption shall have been claimed, and shall be connected therewith, and levied and accounted for as in other cases of assessed taxes."

"Third Rule.—The respective commissioners acting in the execution of the said acts in their respective districts shall, and are hereby authorized and required, on the production of the certificate of effective service for any one year, in the manner prescribed by the schedule marked (E.) in the acts relating to assessed taxes, and the certificate of contract and composition, by such person or persons, by certificate under the hands of any two of the said commissioners, to be indorsed on the said last-mentioned certificate, to remit and deduct from the annual amount payable on such contract, but nevertheless for the particular year only in and for which such certificate of effective service shall have been produced, and such exemption shall have been acquired, a sum equal to the amount of duty for any such horse, mare, or gelding, horses, mares, or geldings, in respect of which such exemptions shall have been so acquired, and to discharge the amount from the abstract of composition prepared by the said commissioners, in like manner as they would have discharged the same from the annual assessment for such particular year of exemption, in case such compositions had not been entered into; and in all cases where such exemptions shall have been claimed and established for and in respect of the year ending the 5th day of April, 1820, and the instalments on such composition shall have been paid for that year, it shall be lawful for the said commissioners to certify the amount of duty so discharged by reason of the said exemption for the said year, with the cause thereof, to the commissioners for the affairs of taxes; and in that case it shall be lawful for the said commissioners to order and direct the receiver-general of the county, riding, or division, in which such composition shall have been entered into, to repay the same to the party, which order shall be an authority to such receiver-general to make such payment, and the same shall be allowed in his accounts."

1 & 2 Geo. 4,
c. 113.

Assessments for the year ending 5th April, 1822, to remain to the same amount, if compounded for, in respect of the matters herein mentioned.

By the 1 & 2 Geo. IV. c. 113, intituled, "An Act to continue several Acts for the Relief of Persons compounding for Assessed Taxes from an Annual Assessment for a further Term, and to amend the Acts relating to Assessments and Compositions of Assessed Taxes," it is enacted, "that the assessments made or to be made under and by virtue of the acts in force, at and immediately before the passing of this act, in relation to the duties on windows or lights and on inhabited houses; and the assessments made or to be made in like manner, in relation to such other of the duties of assessed taxes as may be comprised in any composition to be entered into under this act, for the year to end on the fifth day of April, 1822, shall severally be and remain to the same annual amount in respect of all and every the persons or person who shall compound for the annual payment of the said assessments under this act, for the term of six years, in respect of the said duties on houses and windows and lights, and for the term of five years in respect of the other assessed taxes, to be respectively computed from the fifth day of April, 1822."

Compositions under former acts may be renewed, subject as herein mentioned.

Sect. 2. "That the several compositions entered into under the said recited acts, on the duties on windows or lights, and on inhabited houses, may be renewed under the provisions of this act for the term of six years, to be computed from the said fifth day of April, 1822; and the several compositions entered into under the said recited acts on the other duties of assessed taxes may, in respect of such of the said other duties as are herein enumerated, be renewed under this act for the term of five years, to be computed from the said fifth day of April, 1822, in the manner, and subject to the terms, conditions, and exceptions herein prescribed."

What new contracts of composition are to contain.

Sect. 3. "That every new contract of composition entered into under this act, in respect of a dwelling-house, shall contain in the body thereof a sche-

dule of the number of windows or lights in the dwelling-house, and the annual rent or value thereof; and every such new contract entered into as aforesaid, in respect of the other duties of assessed taxes, shall contain in the body thereof the number of servants, carriages, horses, and other articles of each such establishment, as aforesaid; and the said several contracts shall be made according to the form set forth in the schedule to this act, *mutatis mutandis*."

4. *Of Compounding for Assessed Taxes.*

1 & 2 Geo. 4.
c. 113.

Sect. 4. "That no composition shall be entered into or renewed under this act, for any duty or duties of assessed taxes, other than the duties on dwelling-houses mentioned in the schedules of an act passed in the forty-eighth year of the reign of his late majesty, marked (A.) and (B.); and the other duties of assessed taxes on the following articles, forming the establishments of the persons or person so compounding, and retained, employed, kept, and used for their, his, or her own use, and not for or to the use, benefit, or profit of any other person or persons, or to be lent or let to hire; viz. the duties on servants mentioned in the schedule of the said act, and in the schedule of another act, passed in the fifty-second year of the reign of his said late majesty, marked (C.) No. 1, and No. 2; on carriages mentioned in the schedules of the said acts respectively, marked (D.) No. 1, No. 2, and No. 4; on horses, mares, and geldings, mentioned in the schedules of the said acts respectively, marked (E.) No. 1, and No. 3, and (F.) No. 1, whether such horses, mares, or geldings are subject to the rates mentioned in the said acts, or to any reduced duty by any subsequent act or acts; on dogs mentioned in the schedule of the said acts, marked (G.); on persons in respect of using or wearing hair-powder, mentioned in the schedule of the said act, passed in the forty-eighth year of his late majesty King George the Third, marked (I.); and on persons in respect of using or wearing armorial bearings or ensigns, mentioned in the schedule of the said last-mentioned act, marked (K.); and every such composition which shall comprise any other duty or duties than the duties enumerated shall be void and of no effect in respect of such other duties, and for which the party shall be subject to assessment as if no such composition had been entered into, according to the laws in force relating to such assessments."

Enumeration of articles to be compounded for under this act.

Sect. 5. "That all and every the persons or person not having compounded under the said recited acts, who shall be duly assessed for the year ending on the fifth day of April, 1822, to the rates and duties chargeable under the acts relating to assessed taxes, are and is hereby declared to be competent to compound for the rates and duties assessed on their, his, or her dwelling-house for the term of six years, and for their, his, or her other assessed taxes herein enumerated, for the term of five years respectively, to commence from the said fifth day of April, 1822, on the same amounts annually, as shall be assessed on them, him, or her for the year ending on the said fifth day of April, 1822, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20s., so as not to include in the said additional duty any fraction of 1d."

Persons assessed to duties on houses for year ending the 5th April, 1822, may compound on amount assessed in that year, paying an additional duty of 5l. per cent.

Sect. 6. "That no composition shall be entered into or renewed under this act with any person in trade, in respect of any articles kept for the purpose of trade; nor shall any composition be entered into upon any assessment charged upon two or more persons in partnership in trade; nor shall any composition under the said recited acts, with two or more partners in trade, be renewed under this act; nor upon any carriages, horses, mares, geldings, or other articles let or used for hire."

Exception as to taxes in respect of articles kept for trade, &c.

Sect. 7. "That all and every persons or person who shall have compounded for the duties on their, his, or her dwelling-house, and windows and lights, under the said recited acts, continuing to reside therein, are and is hereby declared to be competent to renew their, his, or her composition under this act, for the same dwelling-house, on the same amount, and under the same terms and conditions as are expressed in the contract of their, his, or her former composition."

Compositions for duties on dwelling-houses to be renewed on the same terms.

Sect. 8. "That all and every persons and person, except as hereinafter is

Compounders on

4. Of Compounding for Assessed Taxes.

1 & 2 Geo. 4,
c. 113.

the other assessed taxes may renew the same on the amount charged thereby, together with a further duty of 5*l.* per cent.

Persons desirous of continuing their former compositions, to deliver their contract or copy, with notice, before the 5th of April, 1822; and insert schedule of articles not to be compounded for (if any) in notice.

Persons having compounded, and reduced their establishments, may compound *de novo*, on the assessment of 1822, on notice within three months, and a return annexed to notice.

Commissioners empowered thereon.

Persons who, since compounding, have succeeded to estates and kept larger establishments, excepted from be-

excepted, who have or hath compounded under the said recited acts for any of the other duties of assessed taxes herein enumerated, are and is hereby declared to be competent to renew their, his, or her former composition, as to so much and such part thereof as relates to the duties on the articles herein enumerated, on the amount of duty charged on the same articles, and comprised in the said former compositions respectively, together with the additional rate of duty of five *per centum* also charged therein in respect of the said articles, which several sums shall form the aggregate amount on which any such composition under this act may be renewed; and the terms and conditions of such renewal shall be a further duty of 1*s.* for every 20*s.* of the said aggregate amount, and so after that rate for any greater or lesser sum than 20*s.*, so as not to include any fraction of 1*d.* in the said further duty; and the duties on articles not herein enumerated nor compounded for as aforesaid shall continue to be assessed as if this act had not been made."

Sect. 9. "That all and every person or persons who are hereby declared to be competent to renew his, her, or their former composition under this act, and shall be desirous so to do, shall, on or before the fifth day of April, 1822, in England, and on or before the term of Whitsunday in the same year in Scotland, deliver or cause to be delivered to the commissioners of the district in which such person or persons shall reside, or to the clerk of such commissioners, the contract of his, her, or their former composition, or a true copy or certificate thereof, under the hands of any two of the commissioners acting for the division in which such contract was entered into, annexing thereto a notice according to the form in the schedule to this act annexed, declaring his, her, or their intention to renew the same; and in case the said composition shall include any articles not to be compounded for under this act hereinbefore enumerated, then and in every such case the person or persons so desirous of renewing his, her, or their composition, shall insert in such notice a schedule of the number of articles contained in such composition as are not to be compounded for; all which articles, and the amount of duty thereon, shall be excluded from such renewed composition, and it shall be lawful for the said commissioners to renew the same on the enumerated articles only, on the terms and according to the provisions of this act."

Sect. 10. "That if any person or persons having compounded under the said acts shall have reduced his or their establishment since entering into such composition, whereby such person or persons may be chargeable with a lesser amount of assessed taxes for the year commencing the fifth day of April, 1822, than the duty compounded for, and shall by reason thereof be desirous of waving the said composition, and of entering into a composition *de novo*, it shall be lawful for him, her, or them so to do, upon giving notice in writing of such his, her, or their intention, to the surveyor of the said duties acting for the district in which such person or persons shall reside, within three calendar months after the passing of this act, annexing to such notice a full, true, and complete return or list of the greatest number of articles chargeable with duty, as kept and retained or employed by such person or persons respectively, after the fifth day of April, 1821, so that an assessment may be duly made for the year to commence from the fifth day of April, 1822, on all the articles chargeable for that year; and it shall be lawful for the commissioners (subject to the examinations in the manner hereafter provided for compositions with persons under this act, who shall not have compounded under the said recited acts) to enter into composition, under the provisions of this act, with the person or persons giving the notices aforesaid, upon the amount of such assessment as aforesaid, with the additional duty granted thereon by this act, to all intents as if such persons had not compounded under the said former acts."

Sect. 11. "Provided always, that nothing herein contained shall be construed to empower any person to renew his or her composition in manner and under the conditions hereinbefore mentioned, who, since the commencement of the said composition, hath come into possession of any estate, real or personal, upon the death of any person, by descent, gift, or settlement, or by virtue or in pursuance of any device or legacy, or under the statute for the

distribution of estates of intestates, or by marriage, and hath thereupon retained any servants, carriages, horses, or other articles which may be comprised in any composition to be entered into or renewed under this act, or hath kept any servants, carriages, horses, or other articles aforesaid, of the same description and chargeable to the like duties by the acts relating to assessed taxes, to an extent exceeding the total amount of such composition in the sum of twenty-five *per centum*, in lieu and in place of the like articles kept by the person so dying, or any part thereof: provided, that nothing herein contained shall be construed to authorize the said respective commissioners to contract for the renewal of any composition, under the terms and conditions last before mentioned, with any person who shall have compounded under the said recited acts on a less amount of duty than ought to have been included in such composition; but nevertheless it shall be lawful for the said respective commissioners in every such case, after any such person shall have made a *bona fide* return of the greatest number of servants, carriages, horses, and other articles of his or her assessed taxes, according to the laws in force relating to the said taxes, for the year to commence from the fifth day of April, 1822, in order to an assessment thereon for that year, and who shall be duly assessed for that year to his or her assessed taxes, to contract and enter into composition *de novo* with such person on the amount assessed for that year on him or her, in respect of the articles herein enumerated, together with the additional duty hereby granted on the amounts of other assessments compounded for under this act."

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neft of renewal, but may contract *de novo* on next year's assessment.

The like as to persons who have compounded on a less amount of duty than ought to have been included.

Sect. 12. "That all and every persons or person assessed to the duties on their, his, or her dwelling-house, for the year ending the fifth day of April, 1822, and who shall have opened or made, or shall open or make, any additional windows or lights in the same, after the fifth day of April, 1821, and having made such addition as aforesaid, who shall deliver a statement as hereinafter required, of the number of windows or lights opened or made in their, his, or her dwelling-house, after the said fifth day of April, 1821; also, all and every persons or person who shall have removed or shall remove from their, his, or her dwelling-house, at any time within the year ending the fifth day of April, 1822, and shall not be assessed for that year for the dwelling-house into which they, he, or she shall have removed during that year, but who shall deliver a statement as aforesaid, of the number of windows or lights in such dwelling-house, and the rent or annual value thereof at which the same is chargeable to the said duties, are and is hereby declared to be respectively competent to compound for the said rates and duties on the amount chargeable on such dwelling-house in or by such assessment as shall be made thereon, for the year commencing from the fifth day of April, 1822."

Persons assessed to duties on houses, and increasing windows in the same; also persons removing into a dwelling-house in that year, and not assessed there, may compound on assessment for succeeding year.

Sect. 13. "That all and every persons or person who shall have begun to keep, use, or employ any servants, carriages, horses, or other articles before enumerated, or any additional number thereof, in the year ending on the said fifth day of April, 1822, and who shall deliver a statement as hereinafter is required, of the number of servants, carriages, horses, or other articles aforesaid, so that an assessment may be duly made thereon for the year to commence from the fifth day of April, 1822, are and is hereby declared to be respectively competent to compound under this act, on the amount charged in and by such assessment to be made for the said year, to commence on the said fifth day of April, 1822, on the same terms and conditions as if the said persons or person had been so assessed for the preceding year."

Persons beginning to keep, or increasing an establishment in 1821, may compound on assessment of the succeeding year.

Sect. 14. "That nothing in this act contained shall be construed to extend any composition under the same to any part of any increased establishment set up by any person or persons who hath or have compounded under the said recited acts, which shall, in pursuance of the said recited act of the fifty-ninth year of his said late majesty, or any other act, be discontinued and ceased to be kept in the manner provided by the said act, and which would not have been assessable on the said persons or person on the year to commence after the fifth day of April, 1822."

Proviso for exclusion of articles discontinued and ceased to be kept.

Sect. 15. "Provided also, that nothing in this act contained shall be con-

Renewed composi-

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tion not to extend to articles of a different description than authorized by former composition.

Composition for additional articles.

Compounders having removed to another division, may, on delivering former composition, compound therein.

Compounders entitled to the like privileges of opening windows, or of increasing their establishment, &c., as under former acts.

Exceptions.

Penalties, &c.
how sued for.

Compositions on houses, &c., although in same

strued to extend any renewed composition under the same, to any articles of a different description than is authorized by the composition entered into under the said recited acts, which shall have been set up or kept since the making of the said composition, but every such person shall be assessed for the said articles, as if the said former composition had not been renewed; but nevertheless it shall be lawful for any such person who shall have been assessed for the said additional articles for the year ending the fifth day of April, 1822, or shall be assessed for the same for the subsequent year, and who shall renew his or her former composition, also to compound for the said additional articles, on the amount of such assessment, and the additional rate granted by this act, by entering into a separate contract for the said articles so assessed."

Sect. 16. "That all and every persons or person who shall have compounded under the said recited acts for the articles of their, his, or her establishment, and shall have removed from the division where the former composition was entered into, and who shall be desirous to renew their or his or her composition under this act, in respect of the same establishment, shall deliver to the commissioners of the division where they, he, or she shall reside, the contract of their, his, or her former composition, or a true copy or certificate thereof, under the hands of any two of the commissioners entering into the said contract, annexing thereto a notice according to the form in the schedule to this act annexed, declaring his, her, or their intention to renew the same; and it shall then be lawful for the said commissioners to renew the same, according to the provisions of this act, in like manner as if the said former composition had been entered into by the commissioners of the division where the same is intended to be renewed."

Sect. 17. "That all and every persons or person, entering into any composition according to the provisions of this act, and paying the amount of the sums compounded for at the times and in the proportions and in manner specified in the said recited acts and in this act, and doing and performing all other acts, matters, and things, required by the said recited acts, and this act, shall be entitled to the like privileges of opening, making, or keeping open, free of duty, after the fifth day of April, 1822, any additional number of windows or lights in the dwelling-house comprised in their, his, or her contract of composition, or of setting up or retaining and keeping, using or employing, after the said fifth day of April, 1822, any additional article or articles, composing their, his, or her establishment, to and for their, his, or her own use, but not otherwise, as the persons compounding under the said recited acts are or were entitled to according to the provisions of the said acts, or either of them, and not otherwise provided by this act; and shall be exempt from all assessments on such additional windows or lights, and such additional article or articles of their, his, or her establishment, during the respective terms mentioned in such composition: provided always, that no persons or person, who shall compound under this act for the duties on any carriage with two wheels, and not on any carriage with four wheels, shall be entitled to set up, keep, or use any carriage with four wheels free of duty: provided also, that no person who shall compound for any dog or dogs other than hounds, shall set up or keep free of duty any hound or hounds; nor shall any person who shall compound for any less number of hounds than ten, set up or keep free of duty any additional number of hounds: provided also, that the privileges and immunities in this clause mentioned shall not extend to any dwelling-house not comprised in the said composition, nor to any article or articles of such establishment, specially excluded by this act from every composition to be made under the same, in which excepted cases further or increased charges shall and may be made, and the fines, penalties, and forfeitures incurred under any of the said acts relating to assessed taxes shall and may be be sued for, prosecuted, and recovered according to the provisions of the said several acts, as fully and effectually as if no such composition had been made under this act."

Sect. 18. "That the compositions to be entered into under this act for the duties on windows or lights, or on inhabited houses, although entered in the same contract, shall be deemed and construed to be separate and distinct con-

facts from the compositions entered into in respect of the duties on servants, carriages, horses, or other articles aforesaid, which may be compounded for under this act; and every such composition for the duties on any dwelling-house, in respect of the windows or lights, or as an inhabited house, shall be entered into by and with the commissioners acting for the parish or place where such dwelling-house shall be situate, and not elsewhere; and every such composition in respect of the servants, carriages, horses, or other chargeable articles, forming the establishment of the same persons or person in any part of England, shall be entered into by and with the same commissioners, and in one contract; and the like compositions in Scotland shall also be entered into by and with the same commissioners, and in one contract: provided, that all and every persons or person who shall be assessed for any servants, carriages, horses, or other chargeable articles aforesaid, for the year ending the fifth day of April, 1822, in two or more places in Great Britain, or who shall be assessed for that year, or shall have compounded under the said recited acts in a different place than where they, he, or she, be entitled to compound under this act, shall and they are hereby respectively required to deliver or cause to be delivered to the commissioners to whom such application to compound shall be made, a certificate or certificates under the hands of the respective surveyors of the districts, where they, he, or she shall be so assessed or have compounded under the said recited acts, containing the particulars of such assessment or composition in every such other division or place, according to such forms as shall be devised by the commissioners for the affairs of taxes, pursuant to this act; and every composition entered into or renewed contrary to the provisions before mentioned, shall be vacated and made of no effect, by the judgment of the commissioners for the affairs of taxes, as to compositions made in England, and of the barons of the exchequer in Scotland, as to compositions made in Scotland, on due proof before them by like certificate of any such assessment for the said year, or of any composition under the said recited acts, which respectively shall not have been certified to the commissioners, parties to any such composition, nor comprised therein, unless it shall be proved to their satisfaction respectively, that the same has arisen by error or mistake; in which cases the said barons and commissioners for the affairs of taxes respectively may consent that a new composition should be entered into, to take effect from the fifth day of April, 1822: provided always, that nothing herein contained shall be construed to preclude any person from compounding for the duties on their dwelling-house, without compounding for his or her other assessed taxes, and *vice versa*."

Sect. 19. "That all and every persons or person compounding as aforesaid under this act, shall be freed and discharged from any penalty or penalties contained in the said acts relating to assessed taxes, imposed on persons for non-performance of any matter or thing required by the said act or acts to be done by persons chargeable to the duties contained therein, during the term herein limited, save and except that every such person who, in his or her returns, made under the acts relating to assessed taxes, shall conceal any servant or servants, carriage or carriages, horse or horses, or other article or articles herein enumerated, whereby he or she shall have escaped assessment for such servant, carriage, horse, servants, carriages, or horses, or other article or articles aforesaid, for the year ending the fifth day of April, 1822, or who in his or her statement, lists, and declarations, to be delivered under this act, shall conceal any such article or articles aforesaid, so that he or she shall not have caused the same to be comprised in his or her composition under this act, shall be liable to the like penalty as if such person had not compounded under this act, and had continued liable to assessment under the said acts relating to assessed taxes."

Sect. 20. "That if any person who shall not compound under this act shall, from and after the fifth day of April, 1822, occupy any dwelling-house, or retain or keep for his or her own use any article chargeable with any duty under the acts relating to assessed taxes, which hath been compounded for by any other person or persons, or which hath been set up, retained, used,

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contract, deemed distinct compositions.

Compositions on the other assessed taxes one contract. Scotland.

Persons assessed in two or more places to deliver certificates of amount; the like as to those who have compounded in a different division than where they are entitled to renew.

Scotland.

Compositions on houses may be compounded for without including the other taxes, and *vice versa*.

Compounders not liable to penalties of assessed tax acts, except penalty for concealment to evade assessment for year ending 5th April, 1822, or other concealment to evade amount of composition.

Persons not compounding occupying houses or keeping articles compounded for by other persons,

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or set up by other persons under colour of the composition, held liable to duty.

And where intent to defraud, penalty.

Procuring a contract to be entered into to a less amount than ought to be included, contract void, and penalty 50*l*.

Persons ceasing to be assessed, &c., during residence out of Great Britain, or residing out of Great Britain, not to compound.

In cases of sickness, or other reasonable cause, persons may sign contracts in presence of collector of parish, and persons residing in Ireland may execute contract by attorney.

Compositions with persons afterwards succeeding to estates, and keeping larger establishments, to the extent of one-

employed, or kept by such other person or persons, under their, his, or her composition, or under colour or pretence thereof, the same dwelling-house or other article or articles aforesaid, continuing to belong to the person or persons so compounding, and which hath not been compounded for by the person so occupying the said dwelling-house, or retaining, using, employing, or keeping the said article or articles chargeable as aforesaid, nor under his or her composition; every such person so occupying any dwelling-house, or retaining, using, employing, or keeping for his or her own use any such article as aforesaid, shall be liable to an assessment in respect of the said dwelling-house, during the time of his or her occupation thereof, and also in respect of any such article or articles aforesaid, in like manner and to the like amount as if the same dwelling-house or article or articles had belonged to him or her, and as if no composition had been made by such other persons or person; and on due proof before the commissioners that the same had been done with intent to defraud the revenue, every such person shall be assessed in treble the amount of duty payable as aforesaid."

Sect. 21. "That if any person shall by fraud or covin cause or procure the assessment on which any contract of composition shall be entered into under this act, to be made on a lesser amount of duty than ought to be charged on him or her, or, by any the ways or means in this act mentioned, shall cause or procure any contract of composition under this act to be entered into, or any contract of composition entered into under the said recited acts to be renewed under this act, on a lesser amount of duty than ought to be included in the contract of composition under this act, every contract so entered into or renewed under this act shall be void and of no effect; and every person so offending shall forfeit and pay the sum of 50*l*., to be sued for, recovered, and applied as any penalty contained in the said acts relating to assessed taxes may be sued for, recovered, and applied."

Sect. 22. "That no composition for assessed taxes shall be entered into or renewed under this act, with any person who shall have resided out of Great Britain before the passing of this act, for a temporary purpose only, and who shall have ceased to be assessed to the said duties, or shall have been assessed to a lesser amount during such his or her residence out of Great Britain, and who shall be assessed to the said duties on a lesser amount than he or she was assessed before his or her departure from Great Britain, for the said year ending the fifth day of April, 1822, nor with any person who shall be out of Great Britain at the time of executing this act."

Sect. 23. "That any person residing within Great Britain may, in cases of sickness or infirmity, or other reasonable cause, with the consent of the said respective commissioners, execute such contract in the presence of the collectors of assessed taxes, or one of them, acting for the parish or place where the person compounding shall reside, any thing in the said recited acts or this act to the contrary notwithstanding: provided also, that every such collector shall testify the execution of such contract, by signing the same in the presence of the party so contracting: provided also, that any person duly assessed in Great Britain, for the year ending the fifth day of April, 1822, and entitled to compound under this act, but residing in Ireland at the time of executing the contract of his or her composition by the respective commissioners under this act, may execute such contract by his or her lawful attorney duly constituted, the said power of attorney being first delivered to the said respective commissioners for that purpose, which contract, so executed, shall be of the like force and effect as if the party compounding had personally executed the same."

Sect. 24. "That every composition entered into under this act, in respect of servants, carriages, horses, or other articles before enumerated, with any persons or person hereinafter described, shall cease and determine at the respective times hereinafter mentioned; (that is to say), if any person who shall compound under this act shall afterwards come into possession of any estate, real or personal, or become entitled to the rents or profits of any estate,

real or personal, upon the death of any person, whether by descent, gift, or settlement, or by virtue or in pursuance of any devise or legacy, or under the statute for the distribution of estates of intestates, and shall thereupon retain any servants, carriages, horses, or other articles aforesaid, forming the establishment of the person so dying, or shall keep any other servants, carriages, horses, or other articles aforesaid of the same description, and chargeable to the like duties by the said acts relating to assessed taxes, in lieu and in the place of the like articles kept by the person so dying, or any part thereof, or who at any time after he or she shall come into the possession of or be entitled unto the rents or profits of any such estate by any the means aforesaid, and during the term herein limited for the continuance of such composition as last aforesaid, begin to keep any greater number of servants, carriages, horses, or other articles aforesaid, than hath been compounded for by him, the duties on which increased number, according to the acts relating to assessed taxes, amount unto one-fourth part of the amount of duty so compounded for, then and in every such case the compositions entered into under this act, by any persons or person hereinbefore described, shall respectively cease and determine at the end of the year of assessment, according to the acts relating to assessed taxes, in which any such increase of his or her establishment took place; also, if any person shall intermarry after entering into any composition or compositions under this act, and entered into by both or either of them, and the husband shall by such marriage come into the possession, or to the use or enjoyment of the rents or profits of any estate, real or personal, belonging to his wife before marriage, whether upon such marriage the husband shall acquire any interest in law or equity in such estate or not, or whether the said estate shall remain in or be vested to the sole use of the wife or not, in case the husband shall upon such marriage retain or keep any servants, carriages, horses, or other articles herein enumerated, kept by or belonging to his wife before marriage, or in case the wife shall after such marriage retain her former establishment, or any part thereof, or in case the husband or wife shall upon such marriage begin to keep any other servants, carriages, horses, or other articles herein enumerated of the same description, and chargeable to the like duties, by the said acts relating to assessed taxes, in lieu and in the place of the establishment of the wife before marriage, or any part thereof, so that the separate establishment of either husband or wife, or their joint establishment, would have been assessable on the husband if no composition had been entered into to an amount of duty exceeding one-fourth part of such composition, then and in every such case the composition entered into under this act by any such persons, or either of them, so intermarrying and keeping any such establishment as aforesaid, shall respectively cease and determine at the end of the year of assessment in which such increased establishment began to be kept; but, nevertheless, it shall be lawful for the respective commissioners in every such case, after such person shall have made a *bonâ fide* return of the greatest number of servants, carriages, horses, and other articles of his or her establishment charged with any duty of assessed taxes according to the laws in force relating to the said taxes, for the year next after the determination of such composition, in order to an assessment thereon for that year, and who shall be duly assessed for that year to his or her assessed taxes, to contract and enter into composition, *de novo*, with any person for the remainder of the term then to come and unexpired on the amount so assessed on him or her for that year, together with the additional duty hereby granted on the amounts of other assessments to be compounded for under this act."

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fourth on the amount compounded for, to cease;

so in case of coming into possession by marriage.

Proviso for composition *de novo* for remainder of term.

Sect. 25. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, shall be commissioners for putting in execution this act, and the powers here referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put into execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general to put in

Commissioners, and other officers acting under the former composition acts, to act in like manner in the execution of this act.

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Provisions of former composition acts to remain in force ;

so in respect of limitation of time for executing powers of former acts.

Persons intending to compound to give and sign notice thereof, together with a statement of the articles of composition, in the form in the schedule annexed.

execution this act within the limits of their respective divisions, districts, and places to which they are or shall be appointed ; and the respective commissioners and other persons authorized by the said recited acts, to contract and agree for such compositions, or to do or perform any other matter or thing for carrying the said recited acts into execution, shall severally and respectively contract and agree for the compositions to be entered into under this act, and do and perform all such other matters and things as are required to be done and performed in the execution of this act, within the limits of their respective jurisdictions ; and all the powers and authorities given and granted to them by or under the said recited acts shall, and they are hereby declared to be revived and continued for and during the respective terms herein limited, in as ample and effectual manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act ; and the said commissioners and others before-mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution, in the like and in as full and ample a manner as they, or any of them, are, or were, or was authorized to put in execution the said several recited acts."

Sect. 26. "That all and every the provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said recited acts, although expressly applied to the compositions made under the said acts, or either of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and (except where other provisions, directions, rules, regulations, methods, clauses, matters, and things, are substituted in and by this act) shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act ; and where other provisions, directions, rules, regulations, methods, clauses, matters, or things are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, or things contained in the said acts, the same respectively shall be construed, used, and practised in such manner, and to the like effect in all respects, as if the said recited acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said recited acts, in lieu whereof any part or parts of this act are or is substituted."

Sect. 27. "That where the said recited acts contain any period or limitation of time for the doing or performing of any act, matter, or thing therein required, the powers and authorities of the said acts shall be used and practised for the doing and performing the like acts, matters, and things required by this act, observing therein the period or limitation of time expressed in this act."

Sect. 28. "That all and every persons or person who are or is hereby declared to be competent to compound under this act, and shall be desirous so to do, shall, on or before the fifth day of April, 1822, in England, and on or before the term of Whitsunday in the same year in Scotland, deliver or cause to be delivered, free of charge, to the surveyor of the respective districts acting for the parishes or places where such persons shall respectively reside, a notice in writing according to the form in the schedule to this act annexed, declaring their, his, or her intention to take the benefit of this act, which notice shall be signed and bear date on the day of such signature by such person or persons (or by some authorized agent on their, his, or her behalf, residing in such district, and declaring therein the place of his residence), in the presence of one or more of the assessors or collectors of the said duties for the same parish or place where the persons or person intending to compound shall reside, or in the presence of such surveyor, who re-

spectively shall attest such signature by signing the same with his proper name; and every such notice shall contain the number and description of the articles on which such persons or person shall intend to compound, which notices shall be in the form in the schedule to this act annexed; and all such notices shall and may be retained in the hands of the said surveyor respectively, until the expiration of two calendar months after delivery thereof; and every such surveyor shall carefully and diligently inspect and examine each and every assessment, and each and every contract of composition entered into under the said recited acts, relating to the person or persons so applying respectively, and also the notice or notices delivered by the said persons or person, under the said recited acts, to discontinue any increased establishment set up under such contract or contracts, or any part thereof; and, after such examination thereof, every such surveyor shall from time to time, within the said period of two calendar months, deliver the same to and therewith certify to the respective commissioners authorized by this act to contract for such compositions for the parishes or places where such applications shall have been made, either his satisfaction with the notices delivered in such cases, or his objection thereto, together with the particular article or articles omitted, and the amount of duty on which such composition ought to be made; and no composition shall be entered into in any of the cases so objected to, until a full and complete return shall be made of all and every the articles chargeable with duty, on which the composition ought to be made under the provisions of this act; and every composition entered into contrary to the provisions of this act shall be void and of no effect, and the persons or person entering into the same shall be liable to assessment, according to the provisions of the acts in force relating to assessed taxes, as if no composition had been entered into, and to the charge of the respective surveyors, to be made under the authority and subject to the provisions of the said last-mentioned acts."

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Surveyor to examine assessments, contracts of composition, &c., and to certify to commissioners his satisfaction with notice, or his objection thereto.

Compositions entered into contrary to this act void.

Errors or mistakes in compositions may be amended.

Commissioners to insert the amounts of duties compounded for in their annual duplicates of assessed taxes.

Composition-moneys to be paid to collectors of places mentioned in the contracts.

Sect. 29. "That in every case where, by any error or mistake, the just amount of duty on which the persons or person compounding ought to compound, or the additional rate thereon, shall not be duly inserted or calculated in the contract of composition, it shall be lawful for the said commissioners for the affairs of taxes, and the said barons respectively, by certificate under the hands of any two or more of them, directed to the commissioners of the division by whom such composition was made, to cause the same to be amended, or a new contract made and executed, in such manner as may seem to them expedient to obviate such error or mistake, and conformable to the true intent and meaning of this act; and the said respective commissioners to whom such certificate shall be directed, shall cause the same to be amended accordingly."

Sect. 30. "That, from and after the passing of this act, the respective commissioners acting in the execution of the several acts relating to assessed taxes, and of the acts relating to the several compositions for the same, shall cause the several amounts of the duties compounded for, and the additional duty charged by this act, in each parish, ward, or place within their respective divisions, to be inserted in their annual duplicates of assessments of assessed taxes, on parchment, in such form as the commissioners for the affairs of taxes shall devise, in like manner as if the same amounts had been severally charged by assessment, and shall place the respective amounts payable in each parish, ward, or place, opposite the names of the collectors of the same parish, ward, or place, that the several collectors in each parish, ward, or place, may be answerable for the same amounts as if the same had been to be raised by assessments under the said acts."

Sect. 31. "That the monies to arise and become payable by virtue of the compositions entered into or renewed under this act, shall be payable and paid to the collectors of the respective parishes, wards, or places mentioned in the respective contracts of such compositions, or to one of them, at or before such times respectively as are herein directed to be expressed in such contracts; and that all the powers and provisions in the acts relating to assessed taxes for the raising, levying, re-assessing, paying, and accounting

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1 & 2 Geo. 4,
c. 113.

Persons assessed or compounding, answerable for collectors.

Schedules of defaulters to be delivered to receivers-general, oath of demand having been made.

Collectors in default for non-delivery of schedules, to be certified in like manner, together with the amount remaining unpaid.

Every such certificate to be an authority to the court to issue process for the levy of issues.

After payment of arrears, &c., commissioners for affairs of taxes may remit such issues.

Sheriffs, &c.

for the duties of assessed taxes, shall be used, applied, and enforced for the raising, levying, paying, and accounting for the monies to arise under this act, as if the same had continued in the assessment; and that the persons assessed, or who shall compound, in each such parish, ward, or place, shall be severally answerable for the default of the collector or collectors of each such parish, ward, or place under the acts in force relating to the assessed taxes, rateably and in proportion to the amount of their, his, or her compositions or composition, and the remainder of the assessments for such parish, ward, or place."

Sect. 32. "That the like schedules as are required by the said acts relating to assessed taxes, or any of them, in default of payment of the monies arising by assessment, shall be delivered of persons making default in the payment of monies to arise by such compositions, which last-mentioned schedules shall in all cases be delivered to the respective receivers-general, or their respective deputies, on their next receipt after each day of payment, with an affidavit subscribed, to be made on the oath or affirmation of the said collector or collectors, that the several sums contained in the said schedule have been demanded from, and are due and wholly unpaid from the respective persons charged therewith, either to such collector or collectors, or to any other person or persons for such collector or collectors, to the best of his or their knowledge and belief, which oath the said receivers-general, or their respective deputies, are hereby respectively authorized and required to administer and subscribe; and it shall be lawful for the respective receivers-general, or their respective deputies, and they are hereby required, forthwith to certify the same to the Court of Exchequer at Westminster, in order that process may thereupon be issued against such defaulter without delay."

Sect. 33. "That in default of any such schedule being delivered to any receiver-general, or his deputy, at such his receipts as aforesaid, or within the space of three days thereafter, every such receiver-general, or his deputy, at the same time that he shall certify the default of the collectors in the non-delivery of schedules under any acts relating to assessed taxes, shall, in and by the same certificate, and every receiver-general is hereby required, by himself or his deputy, to certify also to the said Court of Exchequer, the amount of the monies to arise by the said compositions and remaining unpaid, to the best of his knowledge and belief, and the particular parish, ward, or place, and the division, where such failure hath happened, together with the names of the collectors of the said parishes, wards, or places."

Sect. 34. "That from and after the passing of this act, every certificate under the hand of any receiver-general or his deputy, of any default of any collector or collectors of the assessed taxes, or of the monies arising from compositions under the said recited acts or this act, for non-delivery of a schedule as directed by the said acts or this act, shall be a sufficient authority to the barons of the said court, or any one of them, to cause immediate process to be issued out of and from the office of the king's remembrancer of the said court, against the said collector or collectors; upon which writ, the sheriff or other officer to whom the said process shall be directed, shall levy issues after the rate of 1s. for every 20s. of the sums so unpaid or unaccounted for by the said certificate, and shall pay the monies so levied, after deducting the costs, charges, and expenses, to be settled and allowed by the commissioners for the affairs of taxes, to the receiver-general or his deputy; and the said sheriff shall make immediate return of the said process to the court according to the due course thereof: provided always, that it shall be lawful for the commissioners for the affairs of taxes, or any two or more of them, after payment of the duties in arrear so certified, to cause such issues, or such part thereof as they shall think reasonable, and whenever they shall be satisfied that the default so certified was not wilful, to be remitted and paid to the collector or collectors on whom the same was levied, after deducting thereout the costs and charges attending such process and levy, to be settled and allowed by the said commissioners."

Sect. 35. "That all the monies arisen from fines, penalties, issues, and for-

feitures, or shares thereof, respectively recovered, levied, or received under the said acts relating to the duties of assessed taxes or any of them, or under the said recited acts relating to compositions for the said duties, or which, after the passing of this act, shall be recovered, levied, or received under the said acts or this act, shall be paid by all sheriffs, under-sheriffs, or other the person or persons having received or recovered, or who shall receive or recover the same respectively, into the hands of the receiver-general of the said duties and compositions, or to his deputy acting for the county, division, city, or place within which such fines, penalties, issues, and forfeitures, or shares thereof, respectively have arisen and have been received or levied, or shall arise and be received or levied, within ten days after they respectively shall receive any order for that purpose under the hands of any two or more of the said commissioners for the affairs of taxes, or to such other receiver-general of the duties of assessed taxes, or compositions for assessed taxes, to be named in such order, as the said commissioners last mentioned shall direct."

Sect. 36. "That all the monies arising by compositions entered into under the said recited act or this act (the necessary charges of raising and accounting for the same excepted), shall from time to time be paid into the receipt of his majesty's Exchequer at Westminster, to the account of assessed taxes in Great Britain, and shall be carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland."

Sect. 37. "That from and after the fifth day of April, 1821, nothing in the said recited acts contained shall extend, or be construed to extend, to deprive any butcher of any exemption for or on account of one horse to be used by him or his servant or servants solely for the purposes of trade, to which exemption such butcher would have been entitled under any act or acts relating to assessed taxes, in force previous to the passing of the said recited act."

Sect. 38. "That it shall and may be lawful for the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, to order and direct the commissioners of inland excise and taxes in Ireland, or any three or more of them, to make contracts and agreements with any person or persons in Ireland, who shall have made or entered into any composition for the term of three years from the sixth day of January, 1820, under and by virtue of the said recited act, for the rates, duties, and taxes on dwelling-houses, for and in respect of the fire-hearths, or other places for firing or stoves, and of the windows or lights therein, and in the out-houses, offices, and edifices appertaining thereto, and on male servants and other male persons, and on horses, mares, and geldings, and on carriages, race-horses, and dogs; so that such compositions may be continued for any further term not exceeding six years from the sixth day of January, 1823; and in like manner to make contracts and agreements for any term not exceeding seven years, from the sixth day of January, 1822, with any person or persons who shall be assessed or charged for the year ending on the fifth day of January, 1822, with the said rates, duties, and taxes, or any of them, and who shall apply to the said commissioners of inland excise and taxes, for making a composition for the rates, duties, and taxes, which such person or persons shall be chargeable with and liable to pay; and that all such compositions shall be continued and shall be made upon and under the like terms and conditions in all respects, as are directed in and by the said recited act of the said fifty-ninth year, with respect to compositions under the said recited act; and that all rules, regulations, conditions, and provisions, with respect to any such composition made before the passing of this act, and all such other rules, regulations, conditions, and provisions as shall be directed or required by the said commissioners of the treasury, shall be applied and put in effect with respect to such compositions as shall be continued or made under the authority of this act, for and during the term for which such compositions shall be continued or shall be made as aforesaid, as fully and effectually, to all intents and purposes, as if such rules, regulations, conditions, and provisions had been repeated and enacted in this act."

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1 & 2 Geo. 4,
c. 113.

having in hand penalties or issues levied under assessed taxes or compounding acts, or who shall receive same under this act, to pay over to receiver-general.

The monies arising by compositions to be paid into the consolidated fund.

Proviso for butchers for one horse used for the purposes of trade.

Treasury may direct that the provisions of act for relief of persons in Ireland compounding for assessed taxes, be extended for further periods, as herein mentioned.

4. *Of Compounding for Assessed Taxes.*1 & 2 Geo. 4,
c. 113.Schedule annexed
deemed part of
this act.
How form to be
used.

Sect. 39. "That the schedule hereunto annexed shall be deemed a part of this act, as if the same had been inserted herein under a special enactment: provided always, that it shall be lawful for the commissioners of this act to use the said form as well where the composition shall comprise all the duties therein mentioned, or a part or parts thereof, only striking out all such part or parts thereof as may not relate to the duties not intended to be included therein."

"The SCHEDULE to which this Act refers.

"No. I.

"NOTICE to be used by Persons desirous of Compounding for their Assessed Taxes.

"To , surveyor, acting for the parish of , in the division of , in the county of , and to the commissioners acting for the said division.

"Take notice, that I am [or, we are] desirous of compounding for assessed taxes under the powers, conditions, and provisions of an act passed in the second year of the reign of George the Fourth, on dwelling-house and establishment in the said of ; the particulars of which are as follows, viz. :

Dwelling-House situate in the said parish . . .	Number of Windows
	Amount of Rent . . £

ESTABLISHMENT.		Number.
Servants	Schedule (C.), No. I.	
Servants	Schedule (C.), No. II.	
Four-Wheel Carriages	Schedule (D.), No. I.	
Two-Wheel Carriages	Schedule (D.), No. II.	
Taxed Carts	Schedule (D.), No. IV.	
Horses for Riding	Schedule (E.), No. I.	
Race-Horses	Schedule (E.), No. III.	
Dogs	Schedule (G.)	
Hair-Powder	Schedule (I.)	
Armorial Bearings	Schedule (K.)	

And that will attend to execute and receive the contract of composition, when required by the commissioners.

"Signed, the day of , 18 .

"Witness,

"Assessor or collector of the }
above-named parish."

"No. II.

"NOTICE to be used by Persons desirous of renewing their former Composition.

"To the commissioners acting for the division of , in the county of .

"Take notice, that I am [or, we are] desirous of renewing former compositions for assessed taxes, under the powers, conditions, and provisions of an act passed in the second year of the reign of George the Fourth; and that will attend to execute and receive the contract of composition when required by you. And you will further take notice, that the following

articles, not allowed to be compounded for by the said act, are included in said former composition :

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Articles included in	former Composition.	Nos.	Duty.
Persons in employ charged under Schedule (C.), No. III.			
	Do. No. IV.		
	Schedule (D.), No. III.		
	Do. No. V.		
Articles kept for the purpose of trade, charged under	Do. No. VI.		
	Do. (E.), No. II.		
	Do. (F.), No. I.		
	Do. (H.)		

" Signed, the day of , 18 .

" Witness,

" Assessor or collector of the parish of . }

" No. III.

" NOTICE to be used by Persons entitled to Compound on a lesser Establishment than is comprised in their former Composition.

" To , surveyor, acting for the parish of , in the division of , in the county of , and to the commissioners acting for the said division.

" Take notice, that I [or, we] have, before the [sixth day of April, 1821], laid down , part of establishment, on which have compounded under the act of 59 Geo. III., enumerated in the following schedules, and desirous of compounding for the reduced establishment now kept by , and on which compounded, also enumerated in the said schedule.

ESTABLISHMENT laid down since the former Composition.			
		No. ceased to keep before the 6th April, 1821.	Retained, and now kept.
Servants	Schedule (C.), No. I.		
Servants	Schedule (C.), No. II.		
Four-Wheel Carriages	Schedule (D.), No. I.		
Two-Wheel Carriages	Schedule (D.), No. II.		
Taxed Carts . . .	Schedule (D.), No. IV.		
Horses for Riding .	Schedule (E.), No. I.		
Race-Horses . . .	Schedule (E.), No. III.		
Dogs	Schedule (G.)		
Hair-Powder . . .	Schedule (I.)		
Armorial Bearings .	Schedule (K.)		

And that will attend to execute and receive the contract of composition when required by the commissioners.

" Signed, the day of , 18 .

" Witness,

" Assessor or collector of the above-named parish." }

"FORM of renewed Contract of Composition for Assessed Taxes.

		Amount of Duties.	
} Windows Number Rent Amount £			Know all men, that we, two of the commis- sioners acting in the execution of the acts in relation to assessed taxes for the division of , in the county of , have con- tracted and agreed with A. B., of , in the said division, in pursuance of an act passed in the second year of the reign of his present majesty, for the renewal of the com- position of assessed taxes, as stated in the margin hereof; namely,
Total Amount of Duties			
Composition Duty of £5 per Centum			
Total Amount of Composition			
ESTABLISHMENT.		Amount of Duties.	upon
Nos.	Schedules.		dwelling-house , with the appurtenances
Servants	(C.), No. I.		therewith occupied, situate in the said
Servants	(C.), No. II.		parish, on the amount expressed therein;
4-Wheel Carriages (D.), No. I.			and also upon servants, horses, and other
2-Wheel Carriages (D.), No. II.			articles of establishment, on the amount
Taxed Carts	(D.), No. IV.		expressed therein, together with the addi-
Horses for Riding (E.), No. I.			tional rate granted by the said act.
Race-Horses	(E.), No. III.		Which several amounts are to be paid to
Dogs	(G.)		the collectors of the said parish by two in-
Hair-Powder	(I.)		stalments; viz.
Armorial Bearings (K)			1st instalment, on or before the tenth
Composition Duty of £5 per Cent., }			day of October.
under act of 59 Geo. III. . . }			2d instalment, on or before the fifth day
			of April.
Total Amount of Duties			And so yearly during the respective terms
Composition Duty of £5 per Cent., }			of six years and five years, from the fifth
by the 2 Geo. IV }			day of April, 1822, mentioned in the said
			act.
Total Amount of Composition for }			
Establishment }			
Ditto for House }			
Total Amount of Composition			

"The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to the collectors for the said , or one of them, on or before the days above mentioned, upon demand, the yearly sum of , by two instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said composition shall be levied of the goods and chattels of the said , or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.

"Witness,

"Clerk.

} Commissioners of the within Division.

"Witness,

"Clerk.

The party hereto."

"N.B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

"FORM of Contract of Compositions under the Act of the 2 Geo. IV.

		Amount of Duties.	Know all men, that we, two of the commissioners acting in the execution of the acts in relation to assessed taxes for the division of _____, in the county of _____, have contracted and agreed with _____, of _____, in the said division, in pursuance of an act passed in the second year of George the Fourth, for the composition of _____ assessed taxes, as stated in the margin hereof, and additional rate. Which several amounts are to be paid to the collectors of the said _____, by two instalments; viz. 1st instalment, on or before the tenth day of October. 2d instalment, on or before the fifth day of April. And so yearly during the respective terms of six years and five years, from the fifth day of April, 1822, mentioned in the said act.
Windows Number } Rent Amount £			
Total Amount of Duties			
Composition Duty of £5 per Cent.			
Total Amount of Composition			
ESTABLISHMENT.		Amount of Duties.	
Nos.	Schedules.		
Servants	(C.), No. I.		
Servants	(C.), No. II.		
4-Wheel Carriages	(D.), No. I.		
2-Wheel Carriages	(D.), No. II.		
Taxed Carts	(D.), No. IV.		
Horses for Riding	(E.), No. I.		
Race-Horses	(E.), No. III.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings (K.)			
Total Amount of Duties			
Composition Duty of £5 per Cent			
Total Amount of Composition for } Establishment }			
Ditto for House }			
Total Amount of Composition			

"The condition of the above composition is, that the above-named _____ shall duly pay, or cause to be paid, to the collectors for the said _____, or one of them, on or before the days above mentioned, upon demand, the yearly sum of _____, by two instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said composition shall be levied of the goods and chattels of the said _____, or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.

"Witness,

"Clerk.

"Witness,

"Clerk.

} Commissioners of the within Division.

The party hereto."

"N.B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

By the 3 Geo. IV. c. 50, s. 1, intituled, "An Act to extend the Period 3 Geo. 4, c. 50. allowed to Persons Compounding for the Assessed Taxes, and to give further Relief in certain Cases therein mentioned," after reciting, that, "whereas by an act passed in the first and second year of the reign of his present majesty king George the Fourth, intituled 'An Act to continue several Acts 1 & 2 Geo. 4, c. for the Relief of Persons Compounding for Assessed Taxes from an annual 113.

4. *Of Compounding for Assessed Taxes.*

3 Geo. 4, c. 50.

s. 1.

s. 5.

s. 9.

The time for executing the contracts enlarged.

Certificates of composition to be executed on or before the 5th Oct. 1822.

Persons renewing their compositions exempted from the additional duty, where they have not increased their establishment during the period of their former composition.

Surveyor to examine notice, and deliver same to commissioners.

Notice of objection.

Assessment, for a further Term ; and to amend the Acts relating to Assessments and Compositions of Assessed Taxes, persons therein described, who had compounded for the said duties under the acts therein recited, were authorized to continue their former compositions for a further term ; and persons therein also described, who had not so compounded, were authorized to compound for the term and in the manner in the said act prescribed, and on the conditions therein contained ; provided that such persons respectively should give notices of their intentions so to continue their former compositions, or to compound, on or before the fifth day of April, 1822, in the manner by the said act prescribed ; and whereas it is expedient to enlarge the period for compounding under the said act, and to grant relief in certain cases hereinafter described : " it is enacted, " that in every case wherein the respective surveyors acting in the execution of the said act shall, after the fifth day of April, 1822, and before the passing of this act, have received, and in every case wherein the said respective surveyors, from and after the passing of this act, and before the first day of September, 1822, shall receive any notice or offer to compound or to continue any former composition authorized by the said act, except as hereinafter is excepted, it shall be lawful for the said respective surveyors diligently to inquire into and examine such notices, and to certify their assent thereto, at any time within thirty days after the delivery thereof respectively ; and it shall be lawful for the respective commissioners acting in the execution of the said act, and they are hereby authorized and required, to enter into composition with such person or persons respectively, subject to the rules and regulations, and according to the provisions of the said act and of this act, to all intents and purposes, as if the said notices had been delivered within the time limited by the said first-mentioned act ; provided the certificates of such compositions respectively shall be executed by the said commissioners, and the party so compounding, on or before the fifth day of October, 1822 ; and provided that the compositions authorized to be entered into under this act shall not extend to any case mentioned in the said act, other than to renewed compositions, and such compositions as are authorized to be made on the amount of assessments mentioned in the said act, except where otherwise varied by the provisions of this act ; and which certificates of compositions, when executed by the said commissioners or any two or more of them, and by the party aforesaid, in the manner by the said act directed, shall be of the like force and effect, and subject to the like powers and conditions for payment, to all intents, as if the said compositions had been entered into under the directions of the said act, anything in this act contained to the contrary notwithstanding."

Sect. 2. " That if any person or persons who have given or who shall give notice of renewing his, her, or their former compositions under the provisions of the said recited act or of this act, shall not have increased his, her, or their establishment, since entering into such first composition, whereby such person or persons have not become or are liable to be charged with a greater amount of duty for the whole of the articles chargeable than the duty so compounded for, it shall and may be lawful for him, her, or them, to claim he exemption from the said additional duty granted by the said act, upon giving notice in writing of such his, her, or their intention to the surveyor of the said duties acting for the district in which such person or persons shall reside, according to the form in the schedule to this act annexed, on or before the first day of September, 1822 : and all such notices shall and may be retained in the hands of the said surveyor respectively, until the expiration of thirty days after the delivery thereof ; and every such surveyor shall carefully and diligently examine the same, and from time to time, within the said period of thirty days, deliver the same to, and therewith certify to the said respective commissioners, his satisfaction with, or his objections to the said notices delivered in such cases ; and in case the surveyor shall object to any such claim, he is hereby required to give notice thereof in writing to the respective commissioners, and his objections thereto shall, in pursuance of such notice, be heard upon appeal before the said respective commissioners, subject to such rules and regulations as appeals are

directed to be heard and determined under the several acts relating to the assessed taxes."

Sect. 3. "That in all claims to be allowed by the said respective commissioners, acting in the execution of the said acts and of this act, in the cases herein provided, it shall be lawful for the said commissioners, and they are hereby authorized and required, to contract with the said persons, under the said recited act, for a renewal of his, her, or their composition, exclusive of the said additional duty by the said act granted; and where any claim shall be made and allowed under this act, upon any contract made and entered into before the passing thereof, it shall be lawful for any two of the said respective commissioners, and they are hereby required, to certify, under their hands, every such allowance on the back of such contract, without erasing the said additional duty from the body thereof; and all and every such contracts so indorsed shall be as valid and effectual for enforcing the same to the amount of the reduced consideration and instalments by virtue of such indorsement, to all intents, as if the said contracts had been originally entered into without including therein the said additional or further duty."

Sect. 4. "That from and after the fifth day of April, 1822, for the term of five years then next following, any person occupying a farm as tenant at rack-rent, the rent of which shall be less than 200*l.* a-year, and making a livelihood solely thereby, or any person occupying any estate on any other tenure than as tenant at rack-rent solely on such estate, together with a farm at rack-rent, the value of which, on the whole, shall be less than equivalent to a farm at rack-rent of 200*l.* a-year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, shall be exempt from the duty payable under the said acts for one horse, mare, or gelding, *bonâ fide* kept and usually employed for the purpose of husbandry on his said estate or farm, although used occasionally for the purpose of riding; such being claimed and allowed in like manner as is directed by the acts relating to assessed taxes, in other cases of exemption from the said duty."

Sect. 5. "That from and after the said fifth day of April, 1822, any persons occupying a farm of less value than 200*l. per annum*, in the cases of exemptions last hereinbefore described, and making a livelihood solely thereby, and from the profits of letting and use hereinafter mentioned, shall be exempt from the duty chargeable by the said recited acts, in respect of any horses, mares, or geldings, *bonâ fide* kept for the occupation of his, her, or their farm, although any such horses, mares, or geldings, shall be occasionally let to hire, or used in drawing for hire or profit, by such person or persons, for any other purposes than of drawing any carriage chargeable with duty in respect of such horses or carriages, or of letting the same to hire."

Sect. 6. "That the windows to be returned in each such statement were intended by the said last-mentioned act to be, and shall be, the same number on which an assessment hath been made, or might or ought to have been made thereon, if the same had been then occupied for the year ending on the fifth day of April, 1822, according to the laws relating to assessed taxes in force at the time of making the said act; and in all cases where any statement hath been delivered before the passing of this act, containing a less number of windows than were chargeable on the dwelling-house mentioned therein on the sixth day of April, 1821, a new statement shall be delivered within two calendar months after the passing of this act, conformable to the declaration and enactment before mentioned, and it shall be lawful for any person or persons before described, whether such statements have been before delivered or not, to deliver such statements within the said period, according to which assessments shall be made on a number of windows comprised therein; and all contracts of composition made, or to be made, contrary to this act, shall be void and of no effect: provided that the commissioners who may have already executed any contract of composition upon statements delivered contrary to this act may amend the same without exe-

4. Of Compounding for Assessed Taxes.

3 Geo. 4, c. 50.

Commissioners contracting for renewal of composition.

Claims for relief from additional duty may be indorsed on contract.

Exemption from horse-duty under the said acts for farmers herein described occasionally riding a husbandry horse.

Exemption for farmers herein described occasionally letting their husbandry horses to hire, drawing for hire or profit.

Statements required under former act to authorize compositions on assessments to the house and window duty for 1822, in cases of removal, to contain the number of windows chargeable for 1821.

Contracts of composition contrary to act, void.

Amending contracts.

4. *Of Compounding for Assessed Taxes.*

3 Geo 4, c. 50.

Persons authorized to compound may include stewards, bailiffs, &c., and occasional servants employed in taxable capacities.

Discontinuance of composition with persons employed abroad in the public service,

certified to commissioners of district.

Proviso.

Commissioners and other officers appointed to execute the former acts, to execute this act.

cuting new contracts, by indorsing thereon the number of additional windows duty, and per-centage, on every such contract."

Sect. 7. "That it shall be lawful for every person competent to renew his, her, or their composition, or to compound under the said recited act, or this act, to include in such composition, renewed or entered into respectively, the duty in respect of any clerk, or of any steward, bailiff, overseer, or manager, or of any male person described in the schedule of an act, passed in the fifty-second year of the reign of his late majesty, and in the said act mentioned, marked (C.), No. 3, such male person being occasionally employed in any of the capacities enumerated in the schedule to the said act marked (C.), No. 1, as in the said schedule, No. 3, is described: provided, nevertheless, that the composition of any such person so renewing his, her, or their former composition, or compounding, shall contain the duty for one such servant chargeable in the said schedule marked (C.), No. 1; and it shall be lawful for the respective commissioners to include such respective articles herein allowed, or any of them, in such composition respectively, on the same terms as if the said articles had been originally allowed to be compounded for by the said act; and in cases where contracts shall have been entered into before the passing of this act, it shall be lawful for the said respective commissioners, and they are hereby authorized, to amend the same, by causing the amount of composition for any of the articles aforesaid to be certified by indorsement on such contract, under the hands of any two of such commissioners; and the sum so charged and added to the amount of the said composition in and by such certificate, and to the assessment thereof, shall and may be levied and recovered by the same instalments, and in like manner as the amount of composition inserted in the body of such contract, and in addition thereto, anything hereinbefore contained to the contrary notwithstanding."

Sect. 8. "That if any person, during the continuance of his composition under the said act, or this act, shall, by reason of any employment in the public service in the execution of any office, military, naval, or civil, be required and ordered to reside out of the United Kingdom, and such person shall give notice thereof to the surveyor of the district in which such composition shall be entered into, every such composition shall cease and determine on the fifth day of April next after such notice, and the time of such absence and removal from the said United Kingdom, on payment of all arrears due on such contract up to the said fifth day of April last mentioned; and the commissioners for the affairs of taxes shall cause the discontinuance of such contract to be certified to the commissioners of the district in which it was made: provided, that nothing herein contained shall exempt any such person from his or their liability to assessment under the acts relating to the assessed taxes for any year or years commencing from the fifth day of April last aforesaid, in respect of all or any part of his establishment continued to be kept and employed in the said United Kingdom for any part of his family, or from his liability to assessment under the said acts, from and after the fifth day of April next following the discontinuance of such employment in the public service, and his returning to and residing in the United Kingdom, to all intents, as if such composition had not been entered into."

Sect. 9. "That the several and respective commissioners acting in the execution of the said act, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several collectors, surveyors, inspectors, and inspectors-general for the time being, appointed, or to be appointed, to put in execution the said recited act, shall respectively be collectors, surveyors, inspectors, and inspectors-general, to put in execution this act, within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution, in the like and in as full and ample a manner as they or any of them are or is authorized to put in execution the said act; and all and every the powers and authorities,

methods, rules, directions, penalties, forfeitures, clauses, matters, and things 4. *Of Compounding for Assessed Taxes.*
 contained or referred to in the said act (except where such provisions are varied, or other provisions are substituted by this act), shall, in collecting, levying, and accounting for the said compositions and monies respectively, be severally and respectively duly observed, practised, and put in execution throughout Great Britain, in relation to all and every the compositions, duties, and monies aforesaid, as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things were particularly repeated and re-enacted in the body of this act, and applied to all and every such compositions, duties, and monies aforesaid, as part of the provisions of this act.”

3 Geo. 4, c. 50.

“ Schedule to which this Act refers.

“ NOTICE to be used by Persons not having increased their Establishment under former Compositions, and claiming, on renewal, Exemption from the additional Duty of 5*l.* per centum.

“ To , surveyor, acting for the parish of , in the division of , in the county of , and to the commissioners acting for the said division.

“ Take notice, that I am [or, we are] desirous of renewing former composition for assessed taxes, under the powers, conditions, and provisions of two acts, passed in the second and third years of the reign of King George the Fourth; and that do hereby declare, that have not at any time during the period of composition, entered into with the commissioners of the division of , in the county of , become chargeable on a greater aggregate amount of duty, for the whole of the articles comprised in such composition, than the amount of duty compounded for; whereby hereby claim exemption, on such renewal, from the additional duty of 5*l.* per centum by the said acts granted; and that will attend to execute and receive the contract of composition when required by the said commissioners.

“ Signed, the day of , 182 .

“ Witness,

“ (Assessor or Collector of the said parish.)”

4 Geo. IV. c. 11, “ An Act for repealing certain of the Duties of Assessed Taxes; for reducing certain other of the said Duties; and for relieving Persons who have compounded for the same.” (See *ante*, 1024.) 4 Geo. 4, c. 11.

By the 4 Geo. IV. c. 45, “ An Act for allowing Persons to compound for their Assessed Taxes for the Remainder of the Periods of Composition limited by former Acts; and for giving Relief in certain Cases therein mentioned;” after reciting, that “ whereas under and by virtue of an act passed in the first and second years of the reign of his present majesty, intituled, ‘ An Act to continue several Acts for the Relief of Persons compounding for their Assessed Taxes from an annual Assessment for a further Term, and to amend the Acts relating to Assessments, and Compositions of Assessed Taxes;’ and of another act, passed in the third year of his majesty’s reign, intituled, ‘ An Act to extend the Period allowed to Persons compounding for their Assessed Taxes, and to give further Relief in certain Cases therein mentioned;’ all and every the persons therein described were authorized to compound for the duties on houses, windows, and lights, for the term of six years, and other assessed taxes therein enumerated, for the term of five years, to be respectively computed from the fifth day of April, 1822, on the terms and conditions, and under the provisions contained in the said acts, on such persons giving the notices of his, her, or their intention to compound, required by the said acts, on or before certain days, which have since elapsed; and whereas it is expedient to extend the provisions of the said acts, for enabling persons now to enter into composition for the remainder of the periods therein limited, and which were unexpired on the fifth day of April, 1823, in the manner herein provided:” it is enacted, “ That, from and after the passing of this act, it Persons may

4 Geo. 4, c. 45.

1 & 2 Geo. 4, c. 113.

3 Geo. 4, c. 50.

4. *Of Compounding for Assessed Taxes.*

4 Geo. 4, c. 45.
compound upon assessments commencing 5th April, 1823, in respect of articles allowed by the former acts.

Persons intending to compound under this act, to give notice required by 1 & 2 Geo. 4, c. 113, Schedule No. 1, on or before 1st Sept. 1823.

Persons having compounded in Ireland, and coming to reside in Great Britain, may compound under this act, according to their former compositions.

Composition not to exempt from assessment for articles of a different description to those compounded for, but for which

shall and may be lawful for any person or persons who shall be duly assessed to the said rates and duties, for the year commencing the fifth day of April, 1823, and who shall give the notice of their, his, or her intention to compound within the time and in the manner hereinafter provided, and they are hereby respectively declared to be competent to compound for the rates and duties assessed on their, his, or her dwelling-house, for the term of five years, and for their, his, or her other assessed taxes allowed to be compounded for by the said acts, and therein particularly enumerated, for the term of four years respectively, to commence from the fifth day of April, 1823, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so, after that rate, for any greater or lesser sum than 20s.; and the assessments so to be made and compounded for under this act shall severally be and remain to the same annual amount for the respective periods last mentioned, to all intents, as if the said duties had been compounded for under the said acts."

Sect. 2. "That all and every person and persons desirous of compounding under this act, shall, on or before the first day of September, 1823, deliver, or cause to be delivered, free of charge, to the surveyor acting for the respective districts, comprising the parishes or places wherein such persons shall respectively reside, a notice in writing, according to the form in the schedule to the said first-mentioned act annexed, marked No. 1, and in the manner by the said acts directed, declaring their, his, or her intention to compound under this act, and which notice shall be acted upon, observed, and followed for the purposes of composition on a full and complete assessment for the said year, commencing from the fifth day of April, 1823; and the said commissioners shall and are hereby authorized and required to contract with such persons respectively, under the provisions in the said recited acts and this act respectively contained, for the periods and in the manner herein limited, and according to the form of contract set forth in the schedule to this act annexed, *mutatis mutandis*, to all intents, as if such notices had been delivered within the times by the said acts limited, and under the several provisions thereof."

Sect. 3. "That in every case in which any person or persons so having compounded in Ireland, shall, on the occasion of their, his, or her residence in Great Britain, be desirous of retaining the benefit of the same contract of composition entered into in Ireland, it shall be lawful for them, him, or her so to do, and for that purpose to annex to the said notice of their, his or her intention to compound under this act, to be given within the period and in manner hereinbefore described, the original contract of composition entered into in Ireland, or a true copy thereof, duly authenticated by the proper officer in that behalf; and on the receipt of such notice and contract, or a true copy thereof, it shall and may be lawful for the respective commissioners acting in the execution of this act, in and for the district in which such notice shall be delivered, and such person shall reside, to make an assessment of duty on every such person respectively, for the year commencing from the fifth day of April, 1823, according to the number only of the particular articles so included in the said contract of composition, and which shall be deemed and taken in such cases as a full assessment, for the purposes of composition, for the like description of articles under this act; and it shall thereupon be lawful for the said commissioners to enter into a contract of composition with such persons respectively, under the provisions of this act; and all such compositions so to be entered into shall be of the same force and effect, and shall give the person or persons compounding the like privileges and advantages in respect of the same description of articles contained in such composition, as would have been enjoyed under any other contract authorized to be made by virtue of this act: provided, nevertheless, that no such contract, so to be entered into as last aforesaid, and nothing herein contained, shall be construed to exempt any such persons last mentioned from assessment during the continuance of their, his, or her said composition, by reason of their, his, or her residence in Great Britain, for and in respect of any articles kept and used, and chargeable with any duty under the said acts,

of a description different from the duties compounded for in Ireland, but such persons respectively may, on giving notice of their, his, or her intention in that behalf, in the manner hereinbefore directed, respectively compound under this act for such other articles, upon and according to a full and true return and assessment for the same, to be made for the said year, commencing as aforesaid, in the manner directed by this act in other cases of composition; and the whole of the duties so to be compounded for shall and may, in such cases, be included in one and the same contract."

Sect. 4. "That where any person or persons compounding under the said recited acts, or this act, shall have removed from the district in which such composition shall have been entered into, to another dwelling-house and place of residence, and shall thereupon cease to have any dwelling-house or place of residence within the district in which they, he, or she, so compounded, the annual assessment payable on such composition for the year commencing from the fifth day of April next following such removal, shall be transferred to the district in which such person or persons shall then reside; and it shall be lawful for the respective commissioners acting in the execution of the said acts and of this act, within and for the district to which such person or persons shall have so removed, and they are hereby required, upon receiving a certificate thereof, and of the amount of the annual assessment payable on any such person's contract of composition in the former district under the hands of any two of the commissioners acting for such last-mentioned district (and which certificate, to be prepared under the authority of the commissioners for the affairs of taxes, the said commissioners acting for the said district are hereby required to sign, and cause to be delivered to the surveyor for the same district from time to time, as soon as conveniently may be, after every such removal), to cause the several amounts of the duties and instalments compounded for and payable from and after the period last aforesaid, by any such persons or person, to be added to and charged in the assessment of the parish to which such persons or person shall have so removed, and in the annual duplicate of assessment required to be made out by the said commissioners under the said acts for such last-mentioned district; and all such assessments and instalments of composition shall, when so transferred, be collected, levied, and raised, under the same powers, and by the same rules, provisions, ways, and means, as if the said duties had been originally compounded for and made payable to the collectors or collector in the said last-mentioned district, and as if the same originally formed part of the assessment of the parish, ward, or place, to which the said instalments shall have become transferred under the authority of this act, anything in the said recited acts or in any contract contained to the contrary notwithstanding: provided, nevertheless, that nothing herein contained, notwithstanding the transfer of the said future instalments, shall prevent the raising and levying of all arrears of composition payable by the persons last herein described, in the district from which they, he, or she shall have so removed as aforesaid, or otherwise, up to the fifth day of April next following such removal, by the same powers and provisions as the said duties were recoverable before the passing of this act; and all such future instalments, until actually transferred to the assessment of another parish, ward, or place, shall so, in like manner, be raised and levied under the provisions of the said acts, as part of the assessments of the district in which such compositions were entered into."

Sect. 5. "That in every case when and as the future instalments payable under any composition shall have been transferred, and added to the assessment of the parish, ward, or place in the district to which any person or persons shall have removed under the provisions last hereinbefore contained, and which shall be duly certified under the authority of the commissioners for the affairs of taxes, it shall be lawful for the commissioners acting for the district from which the person or persons whose composition shall be so transferred shall have ceased to reside, to discharge all such future instalments so transferred, from the assessment on the parish, ward, or place therewith before charged, and in the duplicates of the said duties to be pre-

4. *Of Compounding for Assessed Taxes.*

4 Geo. 4, c. 45.

they may compound in one contract.

Where persons compounding remove to other districts, the compositions may be transferred and collected in the district of actual residence on certificate.

All instalments and arrears arising within or prior to the year of removal to be paid in the former district.

On transfer of future payments of compositions to assessment of parish of removal, assessment therein may be discharged.

4. *Of Compounding for Assessed Taxes.*

4 Geo. 4, c. 45.

The foregoing provisions for transfer of composition to places of residence applied to further removals by the same persons during the continuance of their compositions.

Privileges herein mentioned allowed to persons having substituted and compounded for a four-wheel carriage in place of a two-wheel carriage under c. 11; and to persons compounding for male servants, under Schedule (C.), 52 Geo. 3, c. 93.

Commissioners and other officers acting under the former composition acts, to act in like manner in the execution of this act.

pared and transmitted from the said last-mentioned district, under the provisions of the said acts."

Sect. 6. "That, in order to the due collection and payment of the instalments on compositions, to all intents as annual assessments in the districts in which the persons chargeable shall reside during the continuance of such compositions, it shall and may be lawful for the respective commissioners acting for any district from which any such person shall again and from time to time remove, to observe and follow the like provisions for transferring the instalments due and payable on such composition, for the year commencing from the fifth day of April next following such removal, to the district, parish, ward, and place to which such person shall again remove, and for the commissioners acting for the last-mentioned district, to add the same to the assessment, and cause the same to be raised in such last-mentioned district, by the same ways and means as are herein provided with respect to a first removal; and all and every the said provisions last herein contained, as applied to a first removal, shall be observed, followed, and applied to and upon every subsequent removal of the same person or persons, as well for enforcing the payment of all arrears of the said compositions, as for charging and raising the future instalment or instalments, as part of the assessment of the parish, ward, or place, to and in which the person or persons so compounding shall actually remove and reside, as for exonerating and discharging the assessments and duplicates for the parish, ward, and place from which such person or persons shall have so again removed."

Sect. 7. "That where any person or persons having compounded under the said acts for a carriage with two wheels, shall have substituted a four-wheel carriage in lieu thereof, and have compounded for the same, and for payment of the difference of duty, under the power given for that purpose by an act passed in the last session of Parliament, intituled 'An Act for repealing certain of the Duties of Assessed Taxes, for reducing certain other of the said Duties, and for relieving Persons who have compounded for the same,' it shall be lawful for every such person or persons to have and enjoy the same privileges during the continuance of their, his, or her said contract, as they, he, or she would have enjoyed under the said acts, if they respectively had originally compounded for a carriage with four wheels; and all and every person or persons who have or hath compounded under the said acts, or who shall compound under this act for a male servant or male servants, chargeable with duty under Schedule (C.), No. 1, of an act passed in the fifty-second year of the reign of his late majesty King George the Third, may employ any male person or male persons, not being servants to persons so compounding, as occasional waiters, or in any of the capacities enumerated in the said Schedule (C.), No. 1, free of any duty, provided such respective employments shall not exceed or extend beyond those allowed and defined by the rules contained in the schedule marked (C.), No. 3, of the said last-mentioned act, in respect of such male persons last mentioned; and all assessments made or to be made on such persons so compounding as last aforesaid, during the continuance of his, her, or their composition, in respect of any such occasional waiters or male persons aforesaid, shall be null and void."

Sect. 8. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, and the said recited acts for compounding for the said duties, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places, in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put in execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general, to put in execution this act within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners and other persons authorized by the said recited acts to contract and agree for such composi-

tions, or to do or perform any other matter or thing for carrying the said recited acts into execution, shall severally and respectively contract and agree for the compositions to be entered into under this act, and do and perform all such other matters and things as are required to be done and performed in the execution of this act, within the limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said recited acts, so far as they apply, and are not repugnant to the provisions of this act, shall and they are hereby declared to be levied and continued for and during the respective terms herein limited, in as ample and effectual a manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act into execution, in the like and in as full and ample a manner as they or any of them are or were or was authorized to put in execution the said several recited acts."

4. *Of Compounding for Assessed Taxes.*

4 Geo. 4, c. 45.

Sect. 9. "That all and every the provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said recited acts, although expressly applied to the compositions made under the said acts, or either of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and (except where other provisions, directions, rules, regulations, methods, clauses, matters, and things, are substituted in and by this act) shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, or things, are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, or things, contained in the said acts, the same respectively shall be construed, used, and practised, in such manner and to the like effect in all respects, as if the said recited acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said recited acts, in lieu whereof any part or parts of this act are or is substituted."

Provisions of former composition acts to remain in force, except as varied by this act.

Sect. 10. "That all and every the provisions in the said act contained, for repealing the several duties of 3s., and of 2s. 10d., and 2d., respectively, chargeable by the several acts therein recited for and in respect of horses, mares, geldings, or mules, shall be deemed and taken to extend to the repeal of the said duties of 3s. on all horses, mares, or geldings, under the height of thirteen hands in the said Schedule (F.) described; anything in the said recited acts contained to the contrary notwithstanding."

The repeal of the duties of 3s. on horses, mares, and geldings, by c. 11, s. 2, declared to extend to the same duty on ponies.

"The SCHEDULE to which this Act refers.

"FORM of Contract of Composition under the Act of 4 Geo. IV.

		Amount of Duties.	Know all men, that we, two of the commissioners acting in the execution of the acts in relation to assessed taxes for the division of _____, in the county of _____, have contracted and agreed with _____, of _____, in the said division, in pursuance of an act passed in the fourth year of George the Fourth, for the composition of assessed taxes, as stated in the margin hereof, and additional rate; which several amounts are to be paid to the collectors of the said _____, or to the collectors of any parish or place to which the said _____ shall remove, and to which any part of the said composition shall thereupon be transferred, under the provisions of the said act, by two instalments; viz.
		£ s. d.	
Windows	No.		
Rent	Amount		
Total Amount of Duty . . . £			
Composition Duty of 5 per Cent.			
Total Amount of } . . £			
Composition . }			
		Amount of Duties.	
		£ s. d.	1st instalment, on or before the tenth day of October; 2nd instalment, on or before the fifth day of April; and so yearly, during the respective terms of five years and four years, from the fifth day of April, 1823, mentioned in the said act. The condition of the above composition is, that the above-named _____ shall duly pay, or cause to be paid, to the collectors for the said compositions, or one of them, on or before the days above mentioned, upon demand, the yearly sum of _____, by two instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said composition shall be levied of the goods and chattels of the said _____, or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.
ESTABLISHMENT.			
No.	Schedules.		
Servants	(C.), No. 1.		
Male Persons	(C.), No. 3.		
4-Wheel Carriages	(D.), No. 1.		
2-Wheel Carriages	(D.), No. 2.		
Taxed Carts	(D.), No. 4.		
Horses for Riding	(E.), No. 1.		
Race-Horses	(E.), No. 3.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings (K.)			
Total Amount of Duties . . . £			
Composition Duty of 5 per Cent. . .			
Total Amount of Composition } . . £			
for Establishment . . . }			
Ditto for House			
Total Amount of } . . £			
Composition . }			

"Witness,

"Clerk.

} Commissioners of the
} within Divisions.

"Witness,

"Clerk.

} The party hereto."

"N.B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

5 Geo. 4, c. 44.

The 5 Geo. IV. c. 44, intituled, "An Act for allowing Persons to compound for their Assessed Taxes for the Remainder of the Periods of Composition limited by former Acts, and for granting Relief in certain Cases;" enacts, "Whereas by an act passed in the last session of parliament, intituled, 'An Act for allowing Persons to compound for their Assessed Taxes for the Remainder of the Periods of Composition limited by former Acts, and for giving Relief in certain Cases therein mentioned,' the persons therein described, who had not entered into composition under the provisions of the acts therein mentioned, within the times thereby limited, were authorized, on giving notice on or before the first day of September, 1823, to compound on their respective assessments, to be made for the year commencing from

the fifth day of April, 1823, for the then remainder of the periods in the said acts named (that is to say), for the term of five years for the duties on houses and windows, and for the term of four years for the other assessed taxes: and whereas it is expedient further to extend the provisions of the said acts, for enabling persons now to enter into composition for the remainder of the said periods which were unexpired on the fifth day of April, 1824, in the manner herein provided;” enacts, “That from and after the passing of this act, it shall and may be lawful for any person or persons who shall be duly assessed to the said rates and duties for the year commencing the fifth day of April, 1824, and who shall give the notice of their, his, or her intention to compound within the time and in the manner hereinafter provided, and they are hereby respectively declared to be competent to compound for the rates and duties assessed on their, his, or her dwelling-house for the term of four years, and for their, his, or her other assessed taxes allowed to be compounded for by the said acts, and therein particularly enumerated, for the term of three years respectively, to commence from the fifth day of April, 1824, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20s.; and the assessments so to be made and compounded for under this act shall severally be and remain to the same annual amount for the respective periods last mentioned, to all intents as if the said duties had been compounded for under the said acts.”

Sect. 2. “That all and every person and persons desirous of compounding under this act shall, on or before the second day of August, 1824, deliver or cause to be delivered, free of charge, to the surveyors acting for the respective districts comprising the parishes or places wherein such persons shall respectively reside, a notice in writing, according to the form and in the manner by the said acts directed, declaring their, his, or her intention to compound under this act, and which notice shall be acted upon, observed, and followed, for the purposes of composition, on a full and complete assessment for the said year, commencing from the fifth day of April, 1824; and the said commissioners shall and are hereby authorized and required to contract with such persons respectively, under the provisions in the said recited acts and this act respectively contained, for the periods and in the manner herein limited, and according to the form of contract set forth in the schedule to this act annexed, *mutatis mutandis*, to all intents as if such notices had been delivered within the times by the said acts limited, and under the several provisions thereof.”

Sect. 3. “That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, and the said recited acts for compounding for the said duties, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places, in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put in execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general, to put in execution this act within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners, and other persons authorized by the said recited acts to contract and agree for such compositions, or to do or perform any other matter or thing for carrying the said recited acts into execution, shall severally and respectively contract and agree for the compositions to be entered into under this act, and do and perform all such other matters and things as are required to be done and performed in the execution of this act, within the limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said recited acts, so far as they apply and are not repugnant to the provisions of this act, shall and they are hereby declared to be revived and continued, for and during the respective terms herein limited, in as ample and effectual a manner as if the same powers and authorities were expressly re-

4. *Of Compounding for Assessed Taxes.*

5 Geo. 4, c. 44.

Persons may compound upon assessments commencing 5th April, 1824, as to articles allowed by former acts

Duties on houses and windows for four years, other assessed taxes three years.

Persons intending to compound under this act, to give the notice required by the former acts on or before the 2nd August, 1824.

Commissioners and other officers acting under the former composition acts, to act in like manner in the execution of this act.

Former acts applied to this act.

4. *Of Compounding for Assessed Taxes.*

5 Geo. 4, c. 44.

Exemption by the 57 Geo. 3, c. 25, extended to persons using houses under like circumstances, as offices and counting-houses, in their professions or other callings.

Exemption not to extend to chambers in inns of court, or colleges in the universities.

Occupiers of farms under 100*l.* per annum, exempted from the duty on dogs *bona fide* kept for the care of sheep.

For removing doubts as to the employment of porters ;

and of persons acting under

enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act ; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution, in the like, and in as full and ample a manner as they or any of them are or were or was authorized to put in execution the said several recited acts."

Sect. 4. " That upon all assessments to be made for any year commencing from and after the fifth day of April, 1824, the provisions in the said act contained, for granting exemptions from the said duties to persons in trade, in respect of houses, tenements, or buildings in the said act described, shall and may be extended and applied by the respective commissioners and officers acting in the execution of the said act and of this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or part of a tenement or building, in the said act described, which shall be used by such person or persons as offices or counting-houses for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house charged to the said duties : provided nevertheless, that the exemptions herein authorized shall not extend to any chamber or apartment in any of the inns of court or of Chancery, or to any college or hall in either of the universities of Oxford or Cambridge, now chargeable with any of the said duties ; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, as are allowed by the said act to persons in trade ; and all and every the provisions in the said act contained shall be observed, followed, and practised by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents, as if such provisions formed part of the said act passed in the fifty-seventh year aforesaid, anything herein contained to the contrary notwithstanding."

Sect. 5. " That upon all assessments to be made for any year or years commencing from and after the fifth day of April, 1824, any person occupying a farm of less value than 100*l.* per annum, and making a livelihood solely thereby, as owner or tenant, in the manner described in the said acts, and as applied to exemptions from the duties on horses, mares, or geldings, kept by such occupiers, and rode on the occasions therein mentioned, shall be exempt from the duty by the said acts granted in respect of any dog or dogs, not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, which shall have been or shall be *bona fide* and wholly kept and used by such occupier, or by any person employed by him or her as a shepherd, on his or her said farm, in the care of sheep ; provided that every such exemption shall be claimed and allowed in like manner as is directed by the acts relating to the assessed taxes in other cases of exemption therein mentioned."

Sect. 6. " That for and in respect of any assessment to be made for any year commencing from and after the fifth day of April, 1824, any male person hired by the employer or employers in the said acts described, by the year or by the week, or otherwise, shall not be deemed and taken to be a porter chargeable with the said duties, for or by reason of his employment in the loading, unloading, stowage, or removal of goods, wares, or merchandize, from, to, or upon any horse, cart, waggon, or other carriage, in the receipt or delivery of such goods, wares, or merchandize, at the shop, warehouse, or place of deposit, unless such person shall also be employed in the drawing or taking of samples of goods, wares, or merchandize, exhibited for the purposes of sale at such shop or warehouse, or elsewhere ; nor shall any person wholly employed in any mine, adventure, or concern, under the superintend-

ence and authority of one or more manager or managers, or one or more clerk or clerks, in such mine, adventure, or concern (where the person or persons liable to the said duties by the said acts shall be assessed for the duty for one overseer or manager at the least, and also for one clerk at the least), be deemed and taken to be an overseer or manager, or a clerk under an overseer or manager chargeable with duty, by reason of the employment of any such person under such manager or clerk in the overlooking and checking of labourers in the performance of the work and labour allotted to them in any such mine, adventure, or concern, and in accounting for the same to any such manager or clerk; anything in the said acts to the contrary notwithstanding."

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5 Geo. 4, c. 44.

clerks and managers in mines or adventures.

Sect. 7. "That, from and after the passing of this act, it shall and may be lawful for any inspector or surveyor, acting in the execution of the said acts and of this act, without any previous information and conviction of the offender in the said penalty, or any part thereof, to charge, according to the provisions of the said acts, any person so chargeable with the said duty payable by persons in respect of their taking or killing game, or doing acts in the said acts mentioned, and who shall have omitted to pay the said duty, and obtain the certificate as by the said acts directed; provided every such charge be made within the period limited by the said acts, and in the single duty only; and which charges shall be allowed by the respective commissioners in the execution of the said acts, and shall be subject to appeal according to the provisions and directions thereof, in like manner as any charges are authorized to be made by any inspector or surveyor, and appeals therefrom heard and determined under the said acts; anything therein contained to the contrary notwithstanding."

The inspectors or surveyors may, without a previous proceeding for the penalty, charge in single duty persons omitting to take out game-certificates.

How charge to be made.

Sect. 8. "That all and every the provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said recited acts, although expressly applied to the compositions made under the said acts, or either of them, and to relief from duties compounded for, and for which exemptions are subsequently provided, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and to the duties for which exemptions are provided by this act, and (except where other provisions are substituted in and by this act) shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and also in reducing any assessment of composition entered into before the passing of this act, in respect of duties for which exemption is herein provided, with the additional duty payable on the amount of such last-mentioned duties, and also in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, or things, are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, or things, contained in the said acts, the same respectively shall be construed, used, and practised in such manner and to the like effect in all respects, as if the said recited acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said recited acts, in lieu whereof any part or parts of this act is or are substituted."

Provisions of former composition acts, except as hereby varied, applied to this act, in entering into compositions, and in granting relief under existing compositions.

"The SCHEDULE to which this Act refers.

"FORM of Contract of Composition under the Act of 5 Geo. IV.

		Amount of Duties.	Know all men, that we, two of the commissioners acting in the execution of the acts in relation to the assessed taxes for the division of _____, in the county of _____, have contracted and agreed with _____, of _____, in the said division, in pursuance of an act passed in the fifth year of King George the Fourth, for the composition of assessed taxes, as stated in the margin hereof, and additional rate; which several amounts are to be paid to the collectors of the said _____, or to the collectors of any parish or place to which the said _____ shall remove, and to which any part of the said composition shall thereupon be transferred, under the provisions of the said act, by two instalments; viz.
		£ s. d.	
Windows No. Rent Amount			
Total Amount of Duty . . . £ Composition Duty of 5l. per Cent.			
Total Amount of } Composition . } . . £			
		Amount of Duties.	1st instalment, on or before the tenth day of October; 2nd instalment, on or before the fifth day of April; and so yearly, during the respective terms of four years and three years, from the fifth day of April, 1824, mentioned in the said act. The condition of the above composition is, that the above-named _____ shall duly pay, or cause to be paid, to the collectors for the said compositions, or one of them, on or before the days above mentioned, upon demand, the yearly sum of _____, by two instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said composition shall be levied of the goods and chattels of the said _____, or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.
		£ s. d.	
ESTABLISHMENT.			
No.	Schedules.		
Servants	(C.), No. 1.		
Male Persons	(C.), No. 3.		
4-Wheel Carriages	(D.), No. 1.		
2-Wheel Carriages	(D.), No. 2.		
Tax-Carts	(D.), No. 4.		
Horses for Riding } or Drawing . }	(E.), No. 1.		
Race-Horses	(E.), No. 3.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings (K.)			
Total Amount of Duties . . . £ Composition Duty of 5l. per Cent.			
Total Amount of Composition } for Establishment . . . }			
Ditto for House			
Total Amount of } Composition . } . . £			

"Dated the _____ day of _____.

"Witness,

"Clerk.

} Commissioners of the
} within Divisions.

"Witness,

"Clerk.

} The party hereto."

"N.B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

7 Geo. 4, c. 22.

By the 7 Geo. IV. c. 22, s. 1, after reciting that "whereas, under the provisions of an act passed in the first and second years of his present majesty, and of other subsequent acts, the compositions which have been respectively renewed and entered into for relieving persons from annual assessments for the assessed taxes will expire with respect to the duties on windows or lights, and on inhabited houses, on the fifth day of April, 1828; and for the other duties of assessed taxes in the said acts mentioned, on the fifth day of April, 1827; and whereas it is expedient to allow persons to have the option of enlarging the periods for the determination of their contracts of composition, and also to afford persons who have not compounded the benefit of

compounding for a certain term under the provisions of this act:" it is enacted, 4. *Of Compounding for Assessed Taxes.*
 "That in every case where any person or persons who hath or have so compounded under the said acts, shall give notice in the manner hereinafter directed, he, she, or they shall be at liberty to continue and extend his, her, or their present composition, on the terms and in the manner following: *videlicet*, contracts of compositions for the duties on windows or lights and inhabited houses, for the further term of two years, to commence on the fifth day of April, 1828; contracts of composition for other duties of assessed taxes, renewed under the said acts, where the former duties and the additional duty by the said acts granted are payable, and all other contracts of composition in force for the said other duties of assessed taxes, where no increase of any article or articles of the establishment compounded for shall have taken place within the periods of any such composition, for the further term of three years, to commence from the fifth day of April, 1827; and all and every such contracts of composition shall and may be so continued and extended, on payment of duties to the same annual amount, for the said further periods of two years and three years respectively, as the duties now severally payable on such contracts, and no more; and all other contracts of composition, not being the descriptions aforesaid, in force for the said other duties of assessed taxes, shall and may be renewed and extended for the like further term of three years, commencing from the said fifth day of April, 1827, on payment of duties to the same annual amount as those now payable on such contracts, together with an additional annual duty of 1s. for every 20s. of the aggregate amount of such duties so payable, and so after that rate for any greater or lesser sum than 20s."

7 Geo. 4, c. 22.

Compositions for houses and windows may be continued for two years on notice; compositions for other assessed taxes may be continued for three years.

Additional duty.

To whom notice of continuing contract to be delivered.

Also a declaration where establishment has not been increased.

How far notice binding on party.

Delivering untrue declaration.

Penalty.

To whom assessors and collectors

Sect. 2. "That in every case where any person or persons shall be desirous of continuing his, her, or their compositions under the provisions of this act, he, she, or they shall, before the first day of May, 1827, in England, Wales, and Berwick-upon-Tweed, and before the first day of August in the same year in Scotland, deliver or cause to be delivered to the assessor or assessors, collector or collectors, of the parish, township, or place, in England, Wales, and Berwick-upon-Tweed, and in Scotland to the surveyor acting for the division wherein such compositions shall be respectively payable, a notice according to the form in the schedule to this act annexed, marked No. I., declaring his, her, or their desire to continue such composition; and where any such person or persons shall claim the continuance of his, her, or their composition without payment of any additional duty under this act, on the ground of not having increased his, her, or their establishment in respect of any article or articles of the description compounded for, such person or persons shall also, before the respective days, and in the manner aforesaid, deliver or cause to be delivered to the same assessor or assessors, collector or collectors, or surveyors, as aforesaid, a declaration to that effect, according to the form in the said schedule to this act annexed, marked No. II.; and all such declarations shall, on delivery, be subject to the like examinations and rules for ascertaining the accuracy thereof, and to objections to the same, as provided under the same acts for the examination of notices and returns in securing due compositions; and every such notice and declaration, respectively signed by the person or persons so compounding (or by his, her, or their authorized agent, in the manner in the said acts prescribed), shall, on delivery to any assessor or assessors, collector or collectors, or surveyors, as aforesaid, be binding on the person or persons compounding (except in cases of false declarations hereinafter provided), to all intents as if a renewed contract of the further periods herein allowed were entered into under the provisions of the said acts: provided always, and where any person or persons shall deliver any such declaration that shall be false and untrue, such person or persons shall lose the benefit of continuing his, her, or their composition under the provisions of this act; and such person or persons shall also be liable to the like penalty and penalties as is and are imposed by the acts relating to the said duties on persons liable to the said duties making an untrue return or false declaration of any particulars required by the said acts."

Sect. 3. "That the respective assessors and collectors, by whom such notices and declarations shall from time to time be received, are hereby

4. *Of Compounding for Assessed Taxes.*

7 Geo. 4, c. 22.
to deliver notices
and declarations.

Notices sufficient
authority to the
commissioners
to continue com-
positions.

Proviso as to ad-
ditional duty.

New compositions
may be entered
into.

On notice by
party.

Additional annual
duty.

Persons intending
to enter into new
compositions
under this act to
give notice.

Commissioners to
contract therein
as by former acts.

Persons having
compounded for
a two-wheeled
carriage may set
up a four-wheeled
carriage, on pay-

strictly enjoined and required forthwith and with all diligence to deliver the said notices to the commissioners of the respective districts, or their clerks, and all and every the said declarations to the surveyor acting for the district in which the same shall be received; and every such notice and declaration, after the expiration of the corresponding periods for the examinations thereof, as by the said acts is provided with respect to like notices or returns under the said acts, for the purposes of full and due assessment and composition, shall be a sufficient authority for the respective commissioners, and they are hereby authorized and required to charge such persons respectively in the annual composition assessments for the said further terms; and the payments of the instalments shall be made and enforced half-yearly under the provisions of the said acts and of this act, on the like days of payments, and to all intents as if the respective contracts had been originally made and entered into for the periods herein provided, and to which such notices shall respectively extend; and all persons so charged to the composition duties to be hereby continued, and paying the same, and the additional duties hereby granted in the cases where payable, shall be protected against annual assessments during the periods of continued composition, in like manner as such persons are now protected under their existing compositions against annual assessments."

Sect. 4. "That, from and after the passing of this act, it shall and may be lawful for any description of person or persons competent to compound within the times and in manner prescribed by the said former acts, who shall respectively be duly assessed to the said rates and duties on windows or lights, or on any article or articles allowed to be compounded for under the said acts respectively, for the year commencing the fifth day of April, 1826, and who shall give the notice of his, her, or their intention to compound within the time and in the manner hereinafter provided, to compound for the rates and duties assessed on his, her, or their dwelling-house, and also for his, her, or their other assessed taxes of the descriptions allowed to be compounded for by the said acts, and therein particularly enumerated, for the term of four years respectively, to commence from the said fifth day of April, 1826, on the annual payment of such duties respectively, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20s.; and the assessments so to be made and compounded for under this act shall severally be and remain to the same annual amount for the said term of four years, and under the like protection to the parties compounding, from and against annual assessments in respect of the like description of duties, to all intents as if the said duties had been compounded for under the said acts."

Sect. 5. "That all and every person and persons desirous of compounding under this act, shall, on or before the first day of August, 1826, deliver, or cause to be delivered, free of charge, to the surveyors acting for the respective districts comprising the parishes or places wherein such persons shall respectively reside, a notice in writing, according to the form and in the manner by the said acts directed (*mutatis mutandis*), declaring his, her, or their intention to compound under this act for the term of four years, commencing as aforesaid; and which notice shall be acted upon, observed, and followed, for the purpose of composition, on a full and complete assessment, for the said term of four years, commencing as aforesaid; and the said commissioners shall and are hereby authorized and required to contract with such persons respectively, under the provisions in the said recited acts and this act respectively contained, for the period, and in the manner herein limited, and according to the form of contract applicable to the case of new compositions prescribed by the said acts, to all intents as if such notices had been delivered under the provisions of the said acts."

Sect. 6. "That it shall be lawful for any person or persons, who having compounded under the said acts in respect of a carriage with two wheels, and who shall continue his, her, or their composition under the provisions of this act; and also for any person or persons who shall compound under this act for any such carriage, and who respectively shall be desirous, during any year commencing from and after the fifth day of April, 1826, to set up and

keep a carriage with four wheels, giving previous notice of such his, her, or their intention to the surveyor of the said duties acting for the district in which such person shall reside, one calendar month at least before the setting up and keeping such carriage, and on payment of the difference of duty compounded for on a two-wheeled carriage, and the duty chargeable on a four-wheeled carriage, together with the like additional composition duty *per centum* payable by such contract, and to be computed on such difference, to be indorsed by certificate on every such contract of composition, by any two of the commissioners acting in the execution of this act, in the district in which such contract shall have been entered into or continued, and to commence and be made payable within and for the whole of the year commencing from the fifth day of April, 1826, in which such setting up of a four-wheeled carriage shall take place, by half-yearly instalments, during the continuance of the said contract; and which additional payments shall be enforced in like manner as if they were originally inserted in every such contract; and any person seeking the benefit of this provision shall and may, during the continuation of the increased composition, have the like privileges as those which are now enjoyed by persons compounding under the said acts: provided always, and in case of any such setting up of a four-wheeled carriage in the year commencing on the fifth day of April, 1826, and before any contract shall be completed under this act, then such contract shall and may be entered into, in the first instance, for a four-wheeled carriage to all intents as if the party was assessed for the same."

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7 Geo. 4, c. 22.

ment of difference of duty.

With additional duty.

Proviso.

Commissioners and other officers acting under former composition acts to execute this act.

Sect. 7. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, and the said acts for compounding for the said duties, shall be commissioners for putting in execution this act and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put in execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general, to put in execution this act within the limits of the respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners and other persons authorized by the said recited acts to contract and agree for such compositions, or to perform any other matter or thing for carrying the said acts into execution, shall severally and respectively continue, and also contract and agree for the respective compositions to be continued, and those to be entered into under this act, and to do and perform all such other matters and things as are required to be done and performed in the execution of this act within the limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said acts, so far as they apply and are not repugnant to the provisions of this act, shall, and they are hereby declared to be renewed and continued for the purposes of this act, in as ample and effectual a manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners, and others before mentioned, are hereby empowered and required to do and perform all things necessary for putting this act into execution, in the like and in as full and ample a manner as they or any of them are, or were, or was authorized to put in execution the said several acts."

Provisions of former composition acts to be applied to this act, except as herein varied.

Sect. 8. "That all and every the provisions and directions, rules, regulations, methods, clauses, matters and things contained in the said acts, although expressly applied to the compositions made under the said acts, or either of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and (except when other provisions, directions, rules, regulations, methods, clauses, matters, and things are substituted in and by this act) shall severally and respectively be used and practised in ascertaining, assessing, and charging the amount on which

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any composition is to be continued or made, and the additional rate to be imposed thereon respectively, and in doing and performing all other matters and things necessary for carrying this act into execution; and shall be construed, deemed, and taken to belong to this act as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, and things are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said acts, the same respectively shall be construed, used, and practised in such manner and to the like effect in all respects, and within corresponding and like times and periods, as if the said acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said acts in lieu whereof any part or parts of this act are or is substituted."

"Schedule referred to by this Act.

"No. I.

"FORM of NOTICE of Continuance of Contract under this Act.

"To the commissioners acting for the division of _____, in the county of _____, and to the assessor [or, collector] of the parish [township, or, place] in the said division [or, if in Scotland, To the surveyor of the said division of _____, as the case may be].

"Take notice, that I am [or, we are] desirous of continuing, under the powers, conditions, and provisions of an act passed in the seventh year of the reign of King George the Fourth, my [or, our] contract [or, contracts, as the case may be,] of composition for assessed taxes now in force and payable in the said parish [township or place].
(To be signed.)"

"No. II.

"FORM of DECLARATION to be delivered by Persons desirous of continuing their Compositions free from additional Duty of Five *per Centum*, in Cases where no Increase of the Article or Articles compounded for shall have taken place.

"To _____, the assessor [or, collector] of the assessed taxes for the parish [township or place] of _____, in the division of _____, [or, if in Scotland, To the surveyor of the assessed taxes for the division of _____].

"I [or, we], the undersigned, having delivered to you a notice of my [or, our] intention to continue my [or, our] contract [or, contracts, as the case may be] of composition for my [or, our] assessed taxes now in force, under the provisions of an act passed in the seventh year of the reign of King George the Fourth, do hereby declare that I [or, we] have not at any time during the period of my [or, our] said composition set up or increased any article or articles of my [or, our] establishment of the description compounded for, over and above the number included in my [or, our] said composition, and on which account I [or, we] hereby claim the continuance thereof, without payment of any additional duty.
(To be signed.)"

10 Geo. 4, c. 21.

Duties of assessed taxes payable under contracts of

By the 10 Geo. IV. c. 21, "An Act to continue Compositions for the Assessed Taxes for a further Term of One Year," after reciting that whereas the several duties of composition for the assessed taxes payable under the provisions of an act passed in the seventh year of the reign of his present majesty, intituled, 'An Act to enable Persons to continue their Compositions for Assessed Taxes for further Periods, and for allowing Persons who have not compounded to enter into Composition for a limited Term, will expire on the fifth day of April, 1830; and it is expedient to continue and extend such compositions for the further term of one year, to determine on the fifth day of April, 1831, in manner and subject to the provisions hereinafter mentioned:' it is enacted, 'That the several duties now payable under all and every contract of composition for the said duties of assessed taxes, by virtue of any act or acts in force at the time of passing this act, and all and every

such contract of composition respectively (except in the cases hereinafter provided), shall and are hereby declared to be continued to his majesty, to the same annual amounts as are now payable under such contracts and compositions for the further period of one year, to commence from the said fifth day of April, 1830; and all persons paying the said several duties of composition for the said further term of one year, by two equal half-yearly payments on or before the tenth day of October, 1830, and on or before the fifth day of April, 1831, respectively, shall have the full benefit of their respective contracts and compositions to all intents as if the same had been originally made or entered into under the said acts, or renewed or continued for a term or terms to expire on the said fifth day of April, 1831."

Sect. 2. "That this act shall not extend to any person who shall be desirous of determining his or her contract of composition on the fifth day of April, 1830, and who shall, on or before the tenth day of October, 1829, give notice in writing of such his or her desire to the assessor or collector of the parish or place, or to the surveyor acting in the execution of this act, for the district in which such composition shall be payable."

Sect. 3. "That all and every the powers and provisions contained in or authorized by the said act passed in the seventh year of the reign of his present majesty, or any act or acts therein mentioned, shall be observed, followed, and executed by the several commissioners, surveyors, inspectors, collectors, and other officers acting in the execution of the said acts and of this act, or otherwise, for charging, collecting, levying, enforcing payment, and paying and accounting for the said duties hereby made payable for the further term of one year, by the half-yearly instalments and in the manner aforesaid, to all intents as if such contracts and compositions respectively had been originally entered into, renewed, or continued in force under the said acts until the fifth day of April, 1831."

By the 1 Wil. IV. c. 35, intituled, "An Act to continue Compositions for Assessed Taxes for a further Term of one Year, and to grant Relief from and alter and repeal the said Duties in certain Cases;" after reciting that, "whereas the duties of composition for the assessed taxes in force under the provisions of an act passed in the last session of parliament, intituled, 'An Act to continue Composition for the Duties of Assessed Taxes for a further Term of One Year,' will expire on the fifth day of April, 1831; and it is expedient to continue such compositions for a further term, subject to the provisions hereinafter contained;" it is enacted, "That the several duties now payable under every contract of composition for the said duties of assessed taxes, by virtue of the said act passed in the last session of parliament, and every contract and composition respectively (except in the cases hereinafter mentioned), shall and are hereby declared to be continued to his majesty, to the like annual amounts as are now payable under such contracts and compositions, for the further period of one year, to commence from the said fifth day of April, 1831; and all persons paying the said several duties of composition for the said further term of one year, by two equal half-yearly payments, on or before the tenth day of October, 1831, and on or before the fifth day of April, 1832, respectively, shall have the full benefit of their respective contracts and compositions to all intents as if the same had been originally in force for a term or terms to expire on the said fifth day of April, 1832."

Sect. 2. "That this act shall not extend to any person who shall be desirous of determining his or her composition on the fifth day of April, 1831, and who shall, on or before the tenth day of October, 1830, give notice in writing of such his or her desire to the assessor or collector of the parish or place, or to the surveyor acting in the execution of this act for the district in which such composition shall be payable."

By sect. 3, the duties are repealed in respect of sons of employers under twenty-one years of age (a).

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10 Geo. 4, c. 21.

composition further continued for one year.

Persons paying the said duties at the appointed time to have the benefit of their contracts as if originally made.

Limiting the extension of this act.

Powers and provisions of former acts to be executed by commissioners, &c., for the further term.

1 Wil. 4, c. 35.

Duties of assessed taxes, payable under contracts of composition, continued to 5th April, 1832.

Persons paying the said duties at the appointed time, to have the benefit of their contracts as if originally made.

Limiting the extension of this act.

(a) See these sections in full, *ante*, p. 1057.

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1 Wil. 4, c. 35.
Powers and provisions of former acts to be executed by commissioners, &c., for the further term.

Act may be repealed this session.

By sect. 4, the duties on carriages and horses are reduced in certain cases (a).

Sect. 5. "That all and every the powers and provisions contained in or authorized by the said act passed in the last session of parliament, or any act or acts therein mentioned, shall be observed, followed, and executed by the several commissioners, surveyors, inspectors, collectors, and other officers acting in the execution of the said acts and of this act, or otherwise, for charging, collecting, levying, enforcing payment, and paying and accounting for the said duties of composition hereby made payable for the further term of one year, by the half-yearly instalments and in the manner aforesaid, to all intents as if such contracts and compositions respectively had been originally entered into, renewed, or continued in force under the said acts, until the fifth day of April, 1832."

Sect. 6. "That this act may be amended, altered, or repealed by an act or acts to be passed in this present session of parliament."

1 & 2 Wil. IV. c. 7. "An Act to continue compositions for assessed taxes until the 5th day of April, 1833, and to grant relief in certain cases."

2 & 3 Wil. IV. c. 113. "An Act to continue until the 5th day of April, 1834, compositions for the assessed taxes, and to grant relief in certain cases."

3 & 4 Wil. IV. c. 34. "An Act to continue until the 5th day of April, 1835, composition for the assessed taxes."

The 4 & 5 Wil. IV. c. 19, repeals certain duties on inhabited dwelling-houses; and by s. 2, "Commissioners of assessed taxes are to reduce compositions which include the above-mentioned duties; and reduction is to take effect from the 5th of April, 1834."

4 & 5 Wil. IV. c. 54. "An Act to continue for five years, from the 5th day of April, 1835, and to amend the acts for authorizing a composition for assessed taxes."

By 5 & 6 Wil. IV. c. 64, s. 8, "The time for giving notice, under 4 & 5 Wil. IV. c. 54, of intention to compound for assessed taxes is enlarged until the 1st day of October, 1835; and by sect. 9, composition on four-wheel carriages drawn by one horse only is declared valid."

4 & 5 Wil. 4, c. 54.

Assessments for the year ending 5th April, 1835, to remain to the same amount if compounded for under this act for the term of five years.

Compositions under former acts may be renewed.

By 4 & 5 Wil. IV. c. 54, intituled, "*An Act to continue for Five Years, from the 5th day of April, 1835, and to amend the Acts for authorizing a Composition for Assessed Taxes*" [13th August, 1834], reciting that, "whereas under and by virtue of several acts divers persons have compounded for their assessed taxes in Great Britain for a certain term limited by the said acts respectively, and their contracts of composition have been from time to time renewed or continued for a further term under and by virtue of several other acts passed for that purpose; and such contracts will expire on the 5th day of April, 1835: and whereas it is expedient to relieve such persons who have so compounded as aforesaid, as well as others who may be willing to compound under the provisions of this act, from an annual assessment, for a further term herein limited:" it is enacted, "that the assessments made or to be made under and by virtue of the acts in force at and immediately before the passing of this act, in relation to such of the duties of assessed taxes as may be comprised in any composition to be entered into under this act for the year to end on the 5th day of April, 1835, shall severally be and remain to the same annual amount in respect of every person who shall compound for the annual payment of the said assessments under this act for the term of five years, to be computed from the 5th day of April, 1835."

Sect. 2. "The several compositions entered into under any former act or acts, and now in force, on any of the duties of assessed taxes, may, in respect of such of the said duties as are herein enumerated, be renewed under this act for the term of five years, to be computed from the said 5th day of April, 1835, in the manner, and subject to the terms, conditions, and exceptions herein prescribed."

(a) See these sections in full, *ante*, p. 1057.

Sect. 3. "Every new contract of composition entered into under this act shall contain in the body thereof the number of servants, carriages, horses, and other articles of the establishment upon which composition shall be made as aforesaid, and shall be made according to the form set forth in the schedule to this act, *mutatis mutandis*."

Sect. 4. "Provided always, that no composition shall be entered into or renewed under this act for any duty or duties of assessed taxes other than the duties on the following articles, forming the establishment of the person so compounding, and retained, employed, kept and used for his own use, and not for or to the use, benefit, or profit of any other person, or to be lent or let to hire; viz. the duties on servants mentioned in the schedule of an act passed in the forty-eighth year of the reign of King George the Third, and in the schedule of another act passed in the fifty-second year of the reign of the said king, marked (C.) No. 1; on carriages mentioned in the schedules of the said acts respectively marked (D.) No. 1 and No. 2; on horses mentioned in the schedules of the said acts respectively marked (E.) No. 1 and No. 3, and (F.) No. 1, whether such horses are subject to the rates mentioned in the said acts, or to any reduced duty by any subsequent act or acts; on dogs mentioned in the schedule of the said acts marked (G.); on persons in respect of using or wearing hair-powder, mentioned in the schedule of the said act passed in the forty-eighth year of the said king, marked (I.); and on persons in respect of using or wearing armorial bearings or ensigns, mentioned in the schedule of the said last-mentioned act marked (K.); and every such composition which shall comprise any other duty or duties than the duties enumerated shall be void and of no effect in respect of such other duties, and for which the party shall be subject to assessment as if no such composition had been entered into, according to the laws in force relating to such assessments."

Sect. 5. "Every person not having compounded under the said former acts, who shall be duly assessed for the year ending on the 5th day of April, 1835, to the rates and duties chargeable under the acts relating to assessed taxes, is hereby declared to be competent to compound for his assessed taxes herein enumerated for the term of five years, to commence from the said 5th day of April, 1835, on the same amounts annually as shall be assessed on him for the year ending on the said 5th day of April, 1835, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20s., so as not to include in the said additional duty any fraction of 1d."

Sect. 6. "Provided always, that no composition shall be entered into or renewed under this act with any person in trade in respect of any articles kept for the purpose of trade; nor shall any composition be entered into upon any assessment charged upon two or more persons in partnership; nor shall any composition under the said recited acts with two or more partners be renewed under this act; nor upon any carriages, horses, or other articles let or used for hire."

Sect. 7. "Every person who is or shall be duly assessed to, or who hath compounded under the said former acts for his dwelling-house, warehouse, shop, or other premises, in respect of the windows or lights therein, for the year ending on the 5th day of April, 1835, shall be entitled to make or open and keep open, free of duty, any additional number of windows or lights in his dwelling-house, warehouse, shop, or other premises so assessed or compounded for; and that no person not so assessed or compounding by reason of his dwelling-house, warehouse, shop, or other premises not containing seven windows or lights, shall be brought into assessment, or made liable to rates and duties, because of the opening of any additional number of windows or lights in such dwelling-house, warehouse, shop, or other premises: provided always, that if any such person as aforesaid, whether he shall be assessed or hath compounded, or shall be liable to be assessed as aforesaid, or not, shall erect or build any addition to such his dwelling-house, warehouse, shop, or premises, or make or open any communication with any other tenement or building adjoining or near thereto, then and in any such case all the win-

4. *Of Compounding for Assessed Taxes.*

4 & 5 Wil. 4, c. 5.
How contracts of composition are to be made.

Enumeration of articles to be compounded for under this act.

Persons assessed for the year ending the 5th April, 1835, may compound on the amount assessed in that year, paying an additional duty of 5l. per cent.

Exception as to taxes in respect of articles kept for trade, &c.

Persons who have compounded for window tax for year ending 5th April, 1835, and persons not then liable to said tax, may open additional windows free of duty.

Proviso as to additions to houses.

4. Of Compounding for Assessed Taxes.

4 & 5 Wil. 4, c. 54.

Compounders on the other assessed taxes may renew the same on the amount charged thereby, together with a further duty of 5*l.* per cent.

dows and lights in such dwelling-house, warehouse, shop, or premises, and in such additional or adjoining tenement or building, shall be rated and assessed together to the said duties, in like manner as the same would before the passing of this act be liable to be rated and assessed under any act or acts in force."

Sect. 8. "Every person, except as hereinafter is excepted, who hath compounded, by any contract now in force under the said former acts, for any of the duties of assessed taxes herein enumerated, is hereby declared to be competent to renew his former composition as to so much and such part thereof as relates to the duties on the articles herein enumerated, on the amount of duty charged and now payable on the same articles respectively, and comprised in the said former composition, together with the additional rate or several additional rates of duty of five *per centum* also charged therein under the said former acts in respect of the said articles, which several sums shall form the aggregate amount on which any such composition may be renewed under this act; and the following shall be the terms and conditions of such renewal; (that is to say,) where the person who hath compounded as aforesaid hath not increased his establishment of servants, horses, carriages, or other articles upon which such composition hath been made to such an extent that the duties chargeable thereon under an assessment would exceed by more than one-fourth the total amount of the sum now payable on such contract of composition, there shall be paid and payable a further additional duty of 1*s.* for every 20*s.* of the said aggregate amount, and so after that rate for any greater or less sum than 20*s.*, so as not to include any fraction of 1*d.* in the said further duty; and where such person hath increased such his establishment beyond the extent aforesaid, but so that the duties chargeable thereon under an assessment would not exceed double the sum now payable under such contract of composition, there shall be paid and payable the further additional duty of 2*s.* for every 20*s.* of the said aggregate amount, and so after that rate for any greater or less sum than 20*s.*, so as not to include any fraction of 1*d.* in the said further duty; and the duties on articles not herein enumerated nor compounded for as aforesaid shall continue to be assessed as if this act had not been made."

Persons desirous of continuing their former compositions to deliver their contract or copy, with notice, before the 5th April, 1835, in England, and before Whitsunday, 1835, in Scotland.

Sect. 9. "Every person who is hereby declared to be competent to renew his former composition under this act, and shall be desirous so to do, shall, on or before the 5th day of April, 1835, in England, and on or before the term of Whitsunday in the same year in Scotland, deliver or cause to be delivered to the commissioners of the district in which such person shall reside, or to the clerk of such commissioners, the contract of his former composition, or a true copy or certificate thereof, under the hands of any two of the commissioners acting for the division in which contract was entered into, annexing thereto a notice according to the form in the schedule to this act annexed, declaring his intention to renew the same, and containing a full, true, and complete return or list of the greatest number of servants, carriages, horses, and other articles of his establishment chargeable with duty which shall have been kept and retained or employed by such person at any time during the year commencing from the 5th day of April, 1834."

Persons having compounded and reduced their establishments may compound *de novo* on the assessment of 1835, on giving notice within three months, and annexing thereto a return of articles chargeable.

Sect. 10. "If any person having compounded under the said former acts shall have reduced his establishment since entering into such composition, whereby such person may be chargeable with a lesser amount of assessed taxes for the year commencing from the 5th day of April, 1835, than the duty compounded for, and shall by reason thereof be desirous of waving the said composition, and of entering into a composition *de novo*, it shall be lawful for him so to do upon giving notice in writing of such his intention to the surveyor of the said duties acting for the district in which such person shall reside, within three calendar months after the passing of this act, annexing to such notice a full, true, and complete return or list of the greatest number of articles chargeable with duty kept and retained or employed by such person after the 5th day of April, 1834, so that an assessment may be duly made for the year to commence from the 5th day of April, 1835, on all the articles chargeable for that year; and it shall be

lawful for the commissioners (subject to the examinations in the manner hereinafter provided for compositions with persons under this act who shall not have compounded under the said recited acts) to enter into composition under the provisions of this act with the person giving the notice aforesaid, upon the amount of such assessment as aforesaid, with the additional duty granted thereon by this act, to all intents as if such person had not compounded under the said former acts."

Sect. 11. "Provided always that nothing herein contained shall authorize the renewal of any contract of composition with any person who hath since increased his establishment of servants, carriages, horses, or other articles upon which such composition hath been made, so that the duties chargeable thereon under an assessment would amount to more than double the sum now payable under such contract of composition, nor with any person who hath compounded on a less amount of duty than ought to have been included in such composition; but nevertheless it shall be lawful for the said respective commissioners in every such case as aforesaid, after any such person shall have made a *bonâ fide* return of the greatest number of servants, carriages, horses, and other articles of his establishment, according to the laws in force relating to the said taxes, for the year to commence from the 5th day of April, 1835, in order to an assessment thereon for that year, and who shall be duly assessed for that year to his assessed taxes, to contract and enter into composition *de novo* with such person on the amount assessed for that year on him in respect of the articles herein enumerated, together with the additional duty of five *per centum* hereby granted on the amount of other assessments compounded for under this act."

Sect. 12. "Provided also that no person who hath compounded under the said former acts, and who shall give notice, in pursuance of the said acts, of his intention to discontinue any part of his increased establishment of servants, carriages, horses, or other articles, in the manner provided by the said acts, shall be allowed to renew his former contract of composition under this act, nor to enter into any new contract of composition under this act, except upon the amount of an assessment made on a *bonâ fide* return of the greatest number of servants, carriages, horses, and other such articles as aforesaid kept and retained or employed by him in the year commencing from the 5th day of April, 1834, together with the additional duty of five *per centum* on such amount, in the same manner as if such person had not compounded under the said former acts, the said notice, or anything in the said former acts or this act, to the contrary thereof notwithstanding."

Sect. 13. "Every person who shall have begun to keep, use, or employ any servants, carriages, horses, or other articles before enumerated, or any additional number thereof, in the year ending on the said 5th day of April, 1835, and who shall deliver a statement, as hereinafter is required, of the number of servants, carriages, horses, or other articles aforesaid, so that an assessment may be duly made thereon for the year to commence from the 5th day of April, 1835, is hereby declared to be competent to compound under this act on the amount charged in and by such assessment to be made for the said year to commence from the said 5th day of April, 1835, on the same terms and conditions as if such person had been so assessed for the preceding year."

Sect. 14. "Provided also that nothing in this act contained shall be construed to extend any renewed composition under the same to any articles of a different description than is authorized by the composition entered into under the said former acts, which shall have been set up or kept since the making of the said composition, but every such person shall be assessed for the said articles as if the said former composition had not been renewed; but nevertheless it shall be lawful for any such person who shall have been assessed for the said additional articles for the year ending the 5th day of April, 1835, or shall be assessed for the same for the subsequent year, and who shall renew his former composition, also to compound for the said additional articles on the amount of such assessment, and the additional rate granted by

4. Of Compounding for Assessed Taxes.

4 & 5 Wil. 4, c. 54.

Persons who, since compounding, have increased their establishments to double the amount compounded for, or who have compounded on too small an amount of duty, may enter into compositions *de novo*.

Persons who have compounded under former acts, giving notice of reduction in their establishment, to enter into new compositions.

Persons beginning to keep or increasing an establishment in 1834 may compound on the assessment of the succeeding year.

Renewed composition not to extend to articles of a different description than authorized by former composition.

4. *Of Compounding for Assessed Taxes.*

4 & 5 Wil. 4, c. 54.
Compounders, having removed to another division of commissioners, may compound therein.

Compounders entitled to the like privileges of increasing establishment, &c., as under former acts.

Exceptions.

As to persons assessed in two places, or who have compounded under former acts in places where they are not entitled to compound under this act.

this act, by entering into a separate contract for the said articles so assessed."

Sect. 15. "Every person who shall have compounded under the said former acts for the articles of his establishment, and shall have removed from the division where the former composition was entered into, and who shall be desirous to renew such composition under this act in respect of the same establishment, shall deliver to the commissioners of the division where he shall reside the contract of his former composition, or a true copy or certificate thereof, under the hands of any two of the commissioners entering into the said contract, annexing thereto a notice, according to the form in the schedule to this act annexed, declaring his intention to renew the same; and it shall then be lawful for the said commissioners to renew the same, according to the provisions of this act, in like manner as if the said former composition had been entered into by the commissioners of the division where the same is intended to be renewed."

Sect. 16. "Every person entering into or renewing any composition according to the provisions of this act, and paying the amount of the sums compounded for at the times and in the proportions and in manner specified in the said former acts and in this act, and doing and performing all other acts, matters, and things required by the said acts, shall be entitled to the like privileges of setting up, or retaining and keeping, using or employing, after the 5th day of April, 1835, any additional article or articles composing his establishment, to and for his own use, but not otherwise, as the persons compounding under the said former acts are now entitled to according to the provisions now in force of the said acts or any of them, and not otherwise provided by this act, and shall be exempt from all assessments on such additional article or articles of his establishment during the term mentioned in such composition: provided always, that no person who shall compound or renew any composition under this act for the duties on any dog or dogs, other than hounds, shall set up or keep free of duty any hound or hounds, nor shall any person who shall compound for any less number of hounds than ten set up or keep free of duty any additional number of hounds: provided also, that the privileges and immunities in this clause mentioned shall not extend to any article of his establishment specially excluded by this act from every composition to be made or renewed under the same, in which excepted cases further or increased charges shall and may be made, and the fines, penalties, and forfeitures incurred under any of the acts relating to assessed taxes shall and may be sued for, prosecuted, and recovered, according to the provisions of the said several acts, as fully and effectually as if no such composition had been made or renewed under this act."

Sect. 17. "Every person who shall be assessed for any servants, carriages, horses, or other chargeable articles aforesaid, for the year ending the 5th day of April, 1835, in two or more places in Great Britain, or who shall be assessed for that year, or shall have compounded under the said former acts in a different place than where he is entitled to compound under this act, shall deliver, or cause to be delivered, to the commissioners to whom such application to compound shall be made, a certificate or certificates under the hands of the respective surveyors of the districts where he shall be so assessed or have compounded under the said acts, containing the particulars of such assessment or composition in every such other division or place, according to such forms as shall be devised by the commissioners of stamps and taxes pursuant to this act; and every composition entered into or renewed contrary to the provisions before mentioned shall be vacated and made of no effect by the judgment of the commissioners of stamps and taxes, on due proof before them by like certificate of any such assessment for the said year, or of any composition, under the said acts, which respectively shall not have been certified to the commissioners, parties to any such composition, nor comprised therein, unless it shall be proved to their satisfaction respectively that the same has arisen by error or mistake; in which cases the said commissioners of stamps and taxes respectively may consent that a

new composition shall be entered into, to take effect from the 5th day of April, 1835."

Sect. 18. "Every person compounding as aforesaid, or renewing any composition under this act, shall be freed and discharged from any penalty or penalties contained in the acts relating to assessed taxes imposed on persons for non-performance of any matter or thing required by the said acts to be done by persons chargeable to the duties contained therein, during the term herein limited, save and except that every such person who in his return made under the acts relating to assessed taxes shall conceal any servant, carriage, horse, or other article herein enumerated, whereby he shall have escaped assessment for such servant, carriage, horse, or other article aforesaid, for the year ending the 5th day of April, 1835, or who in any statement, list, or declaration to be delivered under this act shall conceal any such article, so that he shall not have caused the same to be comprised in his composition under this act, shall be liable to the like penalty as if such person had not compounded, and had continued liable to assessment under the said acts relating to assessed taxes."

Sect. 19. "If any person who shall not compound under this act shall, after the 5th day of April, 1835, retain or keep for his own use any article chargeable with any duty under the acts relating to assessed taxes, which hath been compounded for by any other person, or which hath been set up, retained, used, employed, or kept by such other person under his composition, or under colour or pretence thereof, the same article continuing to belong to the person so compounding, and which hath not been compounded for by the person so retaining, using, employing, or keeping the said article chargeable as aforesaid, nor under his composition, every such person so retaining, using, employing, or keeping for his own use any such article as aforesaid shall be liable to an assessment in respect of any such article as aforesaid in like manner and to the like amount as if the same article had belonged to him, and as if no composition had been made by such other person; and on due proof before the commissioners that the same hath been done with intent to defraud the revenue, every such person shall be assessed in treble the amount of duty payable as aforesaid."

Sect. 20. "If any person shall by fraud or covin cause or procure the assessment on which any contract of composition shall be entered into under this act to be made on a lesser amount of duty than ought to be charged on him, or by any the ways or means in this act mentioned shall cause or procure any contract of composition under this act to be entered into, or any contract of composition entered into under the said former acts or any of them to be renewed under this act, on a lesser amount of duty than ought to be included in the contract of composition under this act, every contract so entered into or renewed under this act shall be void and of no effect; and every person so offending shall forfeit the sum of 50*l.*, to be sued for, recovered, and applied as any penalty contained in the acts relating to assessed taxes may be sued for, recovered, and applied."

Sect. 21. "No composition for assessed taxes shall be entered into or renewed under this act with any person who shall have resided out of Great Britain before the passing of this act for a temporary purpose only, and who shall have ceased to be assessed to the said duties, or shall have been assessed to a lesser amount, during such his residence out of Great Britain, and who shall be assessed to the said duties on a lesser amount than he was assessed before his departure from Great Britain for the said year ending the 5th day of April, 1835, nor with any person who shall be out of Great Britain at the time of executing this act."

Sect. 22. "Any person residing within Great Britain may, in cases of sickness or infirmity, or other reasonable cause, with the consent of the said respective commissioners, execute such contract in the presence of the collectors of assessed taxes, or one of them, acting for the parish or place where the person compounding shall reside, any thing in the said former acts or this act to the contrary notwithstanding: provided also, that every such collector shall testify the execution of such contract by signing the same in the

4. *Of Compounding for Assessed Taxes.*

4 & 5 Wil. 4, c. 54.

Compounders not liable to penalty of assessed tax acts, except penalty for concealment to evade assessment of duty.

Persons occupying houses or keeping articles compounded for by other persons, or set up by other persons under colour of the composition, to be liable to duty.

Intent to defraud, treble the amount of duty.

Persons procuring a contract to be entered into to a less amount than ought to be included, the contract to be void, and the offender to forfeit 50*l.*

Persons having diminished their establishment during their residence out of Great Britain not entitled to compound.

In cases of sickness, persons may sign their contracts in the presence of the collector.

4. *Of Compounding for Assessed Taxes.*

4 & 5 Wil. 4, c. 54.

Compositions with persons afterwards succeeding to estates, and keeping larger establishments, to cease, with power to compound on the assessment.

presence of the party so contracting: provided also, that any person duly assessed in Great Britain for the year ending the 5th day of April, 1835, and entitled to compound under this act, but residing in Ireland at the time of executing the contract of his or her composition by the respective commissioners under this act, may execute such contract by his or her lawful attorney duly constituted, the said power of attorney being first delivered to the said respective commissioners for that purpose, which contract so executed shall be of the like force and effect as if the party compounding had personally executed the same."

Sect. 23. "Every composition entered into or renewed under this act in respect of servants, carriages, horses, or other articles before enumerated, with any person hereinafter described, shall cease and determine at the respective times hereinafter mentioned; (that is to say,) if any person who shall compound or renew any composition under this act shall afterwards come into possession of any estate, real or personal, or become entitled to the rents or profits of any estate, real or personal, upon the death of any person, whether by descent, gift, or settlement, or by virtue or in pursuance of any devise or legacy, or under the statute for the distribution of estates of intestates, and shall thereupon retain any servants, carriages, horses, or other articles aforesaid forming the establishment of the person so dying, or shall keep any other servants, carriages, horses, or other articles aforesaid of the same description and chargeable to the like duties by the said acts relating to assessed taxes, in lieu and in the place of the like articles kept by the person so dying, or any part thereof, or who at any time after he shall come into the possession of or be entitled unto the rents or profits of any such estate by any the means aforesaid, and during the term herein limited for the continuance of such compositions as last aforesaid, begin to keep any greater number of servants, carriages, horses, or other articles aforesaid than hath been compounded for by him, the duties on which increased number, according to the acts relating to assessed taxes, amount unto one-fourth part of the amount of duty so compounded for, then and in every such case the compositions entered into under this act by any such person hereinbefore described shall respectively cease and determine at the end of the year of assessment, according to the acts relating to assessed taxes, in which any such increase of his establishment shall take place; also if any person shall intermarry after entering into or renewing any composition under this act, and entered into by the husband and wife, or either of them, and the husband shall by such marriage come into the possession or to the use or enjoyment of the rents or profits of any estate, real or personal, belonging to his wife before marriage, whether upon such marriage the husband shall acquire any interest in law or equity in such estate or not, or whether the said estate shall remain in or be vested to the sole use of the wife or not, in case the husband shall upon such marriage retain or keep any servants, carriages, horses, or other articles herein enumerated, kept by or belonging to his wife before marriage, or in case the wife shall after such marriage retain her former establishment, or any part thereof, or in case the husband or wife shall upon such marriage begin to keep any other servants, carriages, horses, or other articles herein enumerated, of the same description and chargeable to the like duties by the said acts relating to assessed taxes, in lieu and in the place of the establishment of the wife before marriage or any part thereof, or so that the separate establishment of either husband or wife, or their joint establishment, would have been assessable on the husband if no composition had been entered into or renewed, to an amount of duty exceeding one-fourth part of such composition, then and in every such case the composition entered into or renewed under this act by any such persons, or either of them, so intermarrying and keeping any such establishment as aforesaid, shall cease and determine at the end of the year of assessment in which such increased establishment shall begin to be kept; but nevertheless it shall be lawful for the respective commissioners in every such case, after such person shall have made a *bonâ fide* return of the greatest number of servants, carriages, horses, and other articles of his or her establishment

charged with any duty of assessed taxes, according to the laws in force 4. *Of Compounding for Assessed Taxes.*
 relating to the said taxes, for the year next after the determination of such composition, in order to an assessment thereon for that year, and who shall be duly assessed for that year to his or her assessed taxes, to contract and enter into composition *de novo* with any such person for the remainder of the term then to come and unexpired on the amount so assessed on him or her for that year, together with the additional duty hereby granted on the amounts of other assessments to be compounded for under this act." 4 & 5 Wil. 4, c. 54.

Sect. 24. "The several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque ports, towns, and places in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put into execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general to put in execution this act within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners and other persons authorized by the said former acts to contract and agree for such compositions, or to do or perform any other matter or thing for carrying the said acts into execution, shall severally and respectively contract and agree for the compositions to be entered into or renewed under this act, and shall do and perform all such other matters and things as are required to be done and performed in the execution of this act within the limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said former acts or any of them shall and they are hereby declared to be revived and continued, for and during the term herein limited, in as ample and effectual manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution in the like and in as full and ample a manner as they or any of them are or were authorized to put in execution the said former acts." Commissioners and other officers acting under the former composition acts to act in like manner in the execution of this act.

Sect. 25. "All and every the provisions, directions, rules, regulations, methods, clauses, penalties, matters, and things contained in any former act or acts, and now in force, although expressly applied to the compositions made or renewed under the said acts or any of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into or renewed under this act, and (except where other provisions, directions, rules, regulations, methods, clauses, penalties, matters, and things are substituted in and by this act,) shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act, as part thereof, and shall respectively be applied and enforced for the raising, levying, paying, and accounting for the monies to arise under this act, and for the prevention and punishment of fraud, imposition, and evasion, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, penalties, matters, or things are substituted by this act in lieu of any provisions, directions, rules, regulations, methods, clauses, penalties, matters, or things contained in the said former acts, the same respectively shall be construed, used, and applied in such manner and to the like effect in all respects as if the said former acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said former acts in lieu whereof any part or parts of this act are or is substituted." Provisions of former acts to remain in force.

4. *Of Compounding for Assessed Taxes.*

4 & 5 Wil. 4, c. 54.

Limitation of time for executing the powers of former acts extended to this act.

Persons intending to compound to give notice thereof together with a statement of the articles of composition.

Sect. 26. "Where the said former acts contain any period or limitation of time for the doing or performing of any act, matter, or thing therein required, the powers and authorities of the said acts shall be used and practised for the doing and performing the like acts, matters, and things required by this act, observing therein the period or limitation of time expressed in this act."

Sect. 27. "Every person who is hereby declared to be competent to compound under this act, and shall be desirous so to do, shall, on or before the 5th day of April, 1835, in England, and on or before the term of Whitsunday in the same year in Scotland, deliver or cause to be delivered, free of charge, to the surveyor of the district acting for the parish or place where such person shall reside, a notice in writing according to the form in the schedule to this act annexed, declaring his intention to take the benefit of this act, which notice shall be signed and bear date on the day of such signature by such person (or by some authorized agent on his behalf, residing in such district, and declaring therein the place of his residence) in the presence of one or more of the assessors or collectors of the said duties for the same parish or place where the person intending to compound shall reside, or in the presence of such surveyor, who respectively shall attest such signature by signing the same with his proper name; and every such notice shall contain the number and description of the articles on which such person shall intend to compound, which notices shall be in the form in the schedule to this act annexed; and all such notices shall and may be retained in the hands of the said surveyors respectively until the expiration of two calendar months after delivery thereof; and every such surveyor shall carefully and diligently inspect and examine every assessment, and every contract of composition entered into under the said former acts, relating to the persons so applying respectively, and also the notices delivered by such persons under the said acts to discontinue any increased establishment set up under any such contract, or any part thereof, and after such examination thereof every such surveyor shall from time to time, within the said period of two calendar months, deliver the same to and therewith certify to the respective commissioners authorized by this act to contract for such compositions for the parishes or places where such applications shall have been made, either his satisfaction with the notices delivered in such cases, or his objection thereto, together with the particular article or articles omitted, and the amount of duty on which such composition ought to be made; and no composition shall be entered into or renewed in any of the cases so objected to until a full and complete return shall be made of every article chargeable with duty on which the composition ought to be made under the provisions of this act; and every composition entered into or renewed contrary to the provisions of this act shall be void and of no effect, and the person entering into or renewing the same shall be liable to assessment according to the provisions of the acts in force relating to assessed taxes, as if no composition had been entered into or renewed, and to the charge of the respective surveyors to be made under the authority and subject to the provisions of the said last-mentioned acts."

Errors or mistakes in compositions may be amended.

Sect. 28. "In every case where by any error or mistake the just amount of duty on which the person compounding ought to compound, or the additional rate thereon shall not be duly inserted or calculated in the contract of composition, it shall be lawful for the commissioners of stamps and taxes, by certificate under the hands of any two or more of them directed to the commissioners of the division by whom such composition was made, to cause the same to be amended, or a new contract made and executed, in such manner as may seem to them expedient to obviate such error or mistake, and conformable to the true intent and meaning of this act; and the said respective commissioners to whom such certificate shall be directed shall cause the same to be amended accordingly."

The monies arising by compositions to be paid into the consolidated fund.

Sect. 29. "All the monies arising by compositions entered into or renewed under the said former acts or this act (the necessary charges of raising and accounting for the same excepted) shall from time to time be paid into the receipt of his majesty's exchequer at Westminster, to the account of assessed taxes in Great Britain, and shall be carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland."

Sect. 30. "And be it enacted, that the word 'horse' or 'horses,' wherever the same occurs in this act, shall respectively be construed to mean and include any mare or gelding or mares or geldings, as well as any horse or horses; and that wherever in this act any word is used importing the singular number or masculine gender only, yet such word importing the singular number shall be construed to extend and be applied to several persons or things as well as to one person or thing, and such word importing the masculine gender shall be construed to extend and be applied to females as well as males, unless in the several cases aforesaid, or any of them, it be otherwise specially provided, or there be something in the subject or context repugnant to such constructions."

4. Of Compounding for Assessed Taxes.

4 & 5 Wil. 4, c. 54.
Construction of words.

Sect. 31. "The schedule hereunto annexed shall be deemed a part of this act, as if the same had been inserted herein under a special enactment: provided always, that it shall be lawful for the commissioners of this act to use the said form, as well where the composition shall comprise all the duties therein mentioned, or a part or parts thereof only, striking out all such part or parts thereof as may not relate to the duties not intended to be included therein."

Schedule annexed to be deemed part of act.

How form shall be used.

"The SCHEDULE to which this Act refers.

"No. 1.

"Notice to be used by Persons desirous of compounding for their Assessed Taxes."

"To _____, Surveyor acting for the Parish of _____, in the Division of _____, in the County of _____, and to the Commissioners acting for the said Division.

"Take Notice, that I am desirous of compounding for Assessed Taxes under the Powers, Conditions, and Provisions of an Act passed in the Fifth Year of the Reign of King William the Fourth on my Establishment in the said _____ of _____; the Particulars of which are as follows: viz.

Establishment.	Number.
Servants - - - -	Schedule C. No. I.
Four-wheel Carriages - - -	Schedule D. No. I.
Two-wheel Carriages - - -	Schedule D. No. II.
Horses for Riding - - -	Schedule E. No. I.
Race-Horses - - - -	Schedule E. No. III.
Dogs - - - -	Schedule G.
Hair-Powder - - - -	Schedule I.
Armorial Bearings - - -	Schedule K.

"And that I will attend to execute and receive the Contract of my Composition when required by the Commissioners.

"Signed the _____ day of _____, 183 .

"Witness

"Assessor or Collector of the {
above-named Parish. }

"No. 2.

"Notice to be used by Persons desirous of renewing their former Composition.

"To the Commissioners acting for the Division of _____, in the County of _____

"Take Notice, that I am desirous of renewing my former Compositions for my Assessed Taxes, under the Powers, Conditions, and Provisions of an Act passed in the Fifth Year of the Reign of King William the Fourth, and that I will attend to execute and receive the Contract of Composition when required by you.

4. Of Compounding for Assessed Taxes.

"The following is a true and complete List of the Establishment kept by me in the Year commencing from the 5th Day of April, 1834.

Establishment.			Number.
Servants	-	-	Schedule C. No. I.
Four-wheel Carriages	-	-	Schedule D. No. I.
Two-wheel Carriages	-	-	Schedule D. No. II.
Horses for Riding	-	-	Schedule E. No. I.
Race-Horses	-	-	Schedule E. No. III.
Dogs	-	-	Schedule G.
Hair-Powder	-	-	Schedule I.
Armorial Bearings	-	-	Schedule K.

"Signed the Day of , 183 .

"Witness

"Assessor or Collector of the }
Parish of . }

"No. 3.

"Notice to be used by Persons entitled to compound on a lesser Establishment than is comprised in their former Composition.

"To , Surveyor acting for the Parish of , in the Division of , in the County of , and to the Commissioners acting for the said Division.

"Take Notice, that I have, before the Sixth Day of April, 1834, laid down Part of my Establishment on which I have compounded, enumerated in the following Schedules, and I am desirous of compounding for the reduced Establishment now kept by me, and on which I have compounded, also enumerated in the said Schedule.

Establishment laid down since the former Composition.

			No. ceased to keep before the 6th April, 1834.	Retained and now kept.
Servants	-	-	Schedule C. No. I.	
Four-wheel Carriages	-	-	Schedule D. No. I.	
Two-wheel Carriages	-	-	Schedule D. No. II.	
Horses for Riding	-	-	Schedule E. No. I.	
Race-Horses	-	-	Schedule E. No. III.	
Dogs	-	-	Schedule G.	
Hair-Powder	-	-	Schedule I.	
Armorial Bearings	-	-	Schedule K.	

"And that I will attend to execute and receive the Contract of my Composition when required by the Commissioners.

"Signed the Day of , 183 .

"Witness

"Assessor or Collector of the }
above-named Parish. }

" FORM of renewed Contract of Composition for Assessed Taxes.

ESTABLISHMENT.		Amount of Duties.	Know all men, that we, two of the commissioners acting in the execution of the acts in relation to assessed taxes for the division of _____, in the county of _____, have contracted and agreed with A. B., of _____, in the said division, in pursuance of an act passed in the fifth year of the reign of King William the Fourth, for the renewal of the composition of _____ assessed taxes, as stated in the margin hereof; namely, Upon servants, horses, and other articles of _____ establishment, on the amount expressed therein, together with the additional rate granted by the said act. Which several amounts are to be paid to the collectors of the said parish by two instalments; viz. 1st instalment on or before the tenth day of October. 2nd instalment on or before the fifth day of April. And so yearly during the term of five years from the fifth day of April, 1835, mentioned in the said act.
Nos.	Schedules.		
Servants	(C.) No. I.		
Four-wheel Carriages	(D.) No. I.		
Two-wheel Carriages	(D.) No. II.		
Horses for Riding	(E.) No. I.		
Race-Horses	(E.) No. III.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings	(K.)		
Composition Duty of £5 per Centum, under Act of 59 Geo. 3, c. 51			
The like, under Act 1 & 2 Geo. 4, c. 113			
Total Amount of Duties			
Composition Duty of £ _____ per Centum, by 5 Wil. 4			
Total Amount of Composition			

" The condition of the above composition is, that the above-named shall duly pay or cause to be paid to the collectors for the said , or one of them, on or before the days above mentioned, upon demand, the yearly sum of by two instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said composition shall be levied of the goods and chattels of the said , or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.

" Witness,
" Clerk.

} Commissioners of the within division.

" Witness,
" Clerk.

} The party hereto."

" N. B. With the consent of the commissioners the collector of the parish may witness the signature of the party to the contract."

" FORM of Contract of Compositions under the Act of the Fifth William the Fourth.

ESTABLISHMENT.		Amount of Duties.	Know all men, that we, two of the commissioners acting in the execution of the acts in relation to assessed taxes for the division of _____, in the county of _____, have contracted and agreed with _____, of _____, in the said division, in pursuance of an act passed in the fifth year of King William the Fourth, for the composition of _____, assessed taxes, as stated in the margin hereof, and additional rate. Which several amounts are to be paid to the collectors of the said _____, by two instalments; viz. 1st instalment on or before the tenth day of October. 2nd instalment on or before the fifth day of April. And so yearly during the term of five years from the fifth day of April, 1835, mentioned in the said act.
Nos.	Schedules.		
Servants	(C.), No. I.		
4-wheel Carriages	(D.), No. I.		
2-wheel Carriages	(D.), No. II.		
Horses for Riding. . . .	(E.), No. I.		
Race-Horses	(E.), No. III.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings (K.)			
Total Amount of Duties			
Composition Duty of £5 per Centum			
Total Amount of Composition			

" The condition of the above composition is, that the above-named _____, shall duly pay or cause to be paid to the collectors for the said _____, or one of them, on or before the days above mentioned, upon demand, the yearly sum of _____, by two instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said composition shall be levied of the goods and chattels of the said _____, or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.

" Witness

" Clerk,

" Witness,

" Clerk.

} Commissioners of the within division.

} The party hereto."

" N. B. With the consent of the commissioners the collector of the parish may witness the signature of the party to the contract."

ADDENDA, ERRATA ET CORRIGENDA.

To title "**Parliament**," at page 38, add the following Statute:

By stat. 6 & 7 Wil. IV. c. 102, intituled, "*An Act for rendering more easy the taking the Poll at County Elections*" [20th August, 1836], reciting, "Whereas by an act passed in the second and third years of the reign of his present majesty, King William the Fourth, intituled, '*An Act to settle and determine the Divisions of Counties, and the Limits of Cities and Boroughs, in England and Wales, in so far as respects the Election of Members to serve in Parliament*,' it is among other things enacted, that the poll for the election of knights of the shire shall be taken at such places as in a certain schedule to the said act annexed marked (N.), are mentioned: and whereas it is expedient that provision should be made for increasing the number of such polling places;" it is therefore enacted, "That it shall be lawful for his majesty, by and with the advice of his privy council, from time to time hereafter, on petition from the justices of any county, riding, parts, or division in England or Wales, in quarter sessions assembled, representing that the number of polling places for such county, riding, parts, or division is insufficient, and praying that the place or places mentioned in the said petition may be a polling place or polling places for the county, riding, parts, or division of the county within which such place or places is or are situate, to declare that any place or places mentioned in the said petition shall be a polling place or polling places for that county, riding, parts, or division, and that the justices of the peace for such county, riding, parts, or division in quarter sessions or some special sessions assembled, as in the said act mentioned, shall conformably to the said act divide such county, riding, parts, or division into convenient polling districts, and assign one of such districts to each polling place; and every such direction or order for creating additional polling places shall be certified under the hand of one of the clerks in ordinary of his majesty's privy council, and when so certified shall be published in the *London Gazette*, and shall be of the same force and effect as if the same had been made by the authority of parliament."

Additional polling places may be appointed upon petition from justices in quarter sessions assembled.

Sect. 2. "No such petition shall be made by such justices so assembled unless a notice in writing shall have been delivered, one month at the least before the holding of such quarter sessions, to the clerk of the peace of the county, riding, part, or division wherein the same are held, signed by two justices of the peace for such county, riding, part, or division, and residing therein, or by ten inhabitants, being registered voters for such county, riding, part, or division, which notice shall state that the court will, when such sessions are held, be moved to make such petition, nor unless the clerk of the peace shall, ten days at the least before the holding of such sessions, have caused a copy of such notice to be inserted twice at the least in two of the newspapers of such county, riding, part, or division, if two newspapers are published therein, or, if not, in a newspaper published or commonly circu-

Notices to be given previous to any petition being made.

lated therein, together with a notice of the day upon which such quarter sessions will be held: provided always, that when such motion is made, any person objecting to the same shall be heard by such court against the same or any part thereof, if he thinks fit."

As to the number of polling booths to be provided.

Sect. 3. "Provided always, that at every contested election of a knight or knights to serve in any future parliament for any county, or for any riding, parts, or division of a county, as many polling booths shall be provided at each polling place as will allow one for every four hundred and fifty electors whose names appear upon the registry of the said county or division of a county, and who may lawfully vote at such polling place; and the high sheriff shall provide the same accordingly."

ERRATA, &c.

Page 138 line 15 from bottom, after "excepted," insert "[See also 30 Geo. II. c. 24, s. 4.]"

— 146 — 18 from bottom, after "committed" insert "[See also 30 Geo. II. c. 24, s. 12.]"

— 155 — 23 and 24 from top, dele the words "the said justice, &c. [Conclude as in form, ante, 152.]"

— 183 — 36, after "then and there having," dele the word "a."

— 183 — 41, for "a" after "then and there having," read "such."

— 236, add, as a note to margins of sects. 28 and 29, "See the 5 & 6 Wil. IV. c. 59, title '**Cattle and Animals**,' Vol. I."

— 325 — 27 from top, after "recognizances," add "of bail and."

— 491 — 24, before "16 East," add "*Bertie v. Beaumont*;" after "33," add "*Rex v. Stock*, 2 Taunt. 342."

— 602 — 25, after "post," add "and as to the trial in general, see, post, '**Trial**,' Vol. VI."

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